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Fourth periodic reports of States parties due en 1993

FEDERAL REPUBLIC OF YUGOSLAVIA*

[5 March 1999]

* For the third periodic report submitted by the Government of Yugoslavia, see document CCPR/C/52/Add.9; for its consideration by the Committee, see CCPR/C/SR.1144-1147, CCPR/C/79/Add.4 and Official Records of the General Assembly, Fourty-seventh Session, Supplement No. 40 (A/47/40), paras. 431-469. Pursuant to a request by the Human Rights Committee, a special report was subsequently submitted on 30 October 1992 (CCPR/C/88). For the cosideration of that report by the Committee, see CCPR/C/SR.1202, CCPR/C/79/Add.16 and Official Records of the General Assembly, Forty-eight Session, Supplement No. 40 (A/48/40), paras. 363-389.

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I. BACKGROUND INFORMATION

1. The Federal Republic of Yugoslavia comprises two member republics - Serbia and Montenegro. It is situated in the south-east of Europe and occupies the central part of the Balkan peninsula, covering an area of 102,173 square kilometres. It is a multi-ethnic, multilingual and multiconfessional country. The largest share in the national make-up of the population is that of Serbs and Montenegrins, a total of 67.6 per cent, while the rest are persons belonging to different minorities which account for almost one third (32.4 per cent) of the country's population.

2. The general political structure of the Federal Republic of Yugoslavia is explained in section II of the core document (HRI/CORE/1/Add.40 of 22 July 1994).

3. The former Socialist Federal Republic of Yugoslavia had ratified a large number of international treaties and, on the basis of the principle of continuity, the Federal Republic of Yugoslavia accepted the rights and obligations stemming from those ratifications. Thus the International Covenant on Civil and Political Rights (hereinafter referred to as the Covenant) was ratified on 29 January 1971.1/

4. In addition to the International Covenant on Civil and Political Rights, Yugoslavia has ratified a large number of other international treaties, particularly in the field of human rights. Mentioned here are only those adopted by the United Nations: International Covenant on Economic, Social and Cultural Rights; International Convention on the Elimination of All Forms of Racial Discrimination; International Convention on the Suppression and Punishment of the Crime of Apartheid; International Convention against Apartheid in Sports; Convention on the Prevention and Punishment of the Crime of Genocide; Convention on the Rights of the Child; Convention on the Elimination of All Forms of Discrimination against Women; Convention on the Political Rights of Women; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Slavery Convention; Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery; Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; Convention relating to the Status of Stateless Persons; Convention relating to the Status of Refugees; Protocol relating to the Status of Refugees.

5. International treaties which have been duly ratified and published form an integral part of the internal legal order and as such may be directly applied.

6. The constitutional system of the Federal Republic of Yugoslavia comprises the Constitution of the Federal Republic of Yugoslavia,2/ the Constitution of

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1/ See Official Gazette of the Socialist Federal Republic of Yugoslavia, No. 7/1971 (International Treaties).

2/ See Official Gazette of the Federal Republic of Yugoslavia, Nos. 1/1992 and 34/1992.

the Republic of Serbia 3/ and the Constitution of the Republic of Montenegro.4/ In accordance with international standards, this constitutional system includes the complete corpus of human rights and freedoms. Thus one third of the text of the Constitution of the Federal Republic of Yugoslavia is devoted to the freedoms, rights and duties of man and the citizen (section II, articles 19-68).

II. INFORMATION CONCERNING ARTICLES 1 TO 27 OF THE COVENANT

Article 1

Paragraph 1

7. The Federal Republic of Yugoslavia is a sovereign federal State, founded on the equality of citizens and the equality of the member republics. Each member republic is sovereign in matters other than those defined as the responsibility of the Federal Republic of Yugoslavia under the Federal Constitution. Sovereignty in the member republics is vested in the citizens.

Paragraph 2

8. The main principles of the economic system of the Federal Republic of Yugoslavia are the following: a single economic area and a single market; the inviolability of property; independence and equality of economic entities and equal economic conditions, as well as respect for the interplay of market forces.

9. Natural resources in the Federal Republic of Yugoslavia are State-owned property (art. 73, para. 1, of the Constitution). Agricultural land, forests and land under forests, as well as certain property in the public domain and municipal construction land, may be privately owned or in other forms of ownership, in accordance with the law (art. 73, paras. 2-4 of the Constitution).

10. The Constitution guarantees property. No one may be deprived of property, nor may it be restricted, except when so required by the public interest, in accordance with the law, subject to compensation which may not be below the market value (art. 69, paras. 2-3).

11. The Constitution further guarantees the freedom to work and to engage in economic activity (art. 69, para. 1). Economic agents are independent and equal, and the terms of business are the same for all (art. 74, para. 2).

Paragraph 3

12. Persons belonging to national minorities in the Federal Republic of Yugoslavia are guaranteed all civil, political, economic, social and cultural rights in the broadest sense, without restriction and without discrimination.

3/ See Official Gazette of the Republic of Serbia, No. 1/1990.

4/ See Official Gazette of the Republic of Montenegro, No. 48/1992.

Regrettably, many persons belonging to the Albanian national minority living in Kosovo and Metohija are unable to exercise these rights because they oppose separatist tendencies and growing crime committed by certain Albanian political parties in the territory of this province. Numerous terrorist acts by Albanian separatists not only threaten the security of the citizens of the Federal Republic of Yugoslavia in Kosovo and Metohija, but also make it impossible for them to live and carry out their usual activities normally.

13. This is supported by the following facts. In 1991, Albanian separatists committed 10 terrorist attacks in Kosovo and Metohija; in 1992, 12; in 1993, 8; in 1994, 6; in 1995, 11; in 1996, 31; and in 1997, 55. In the period from 1996 until 15 August 1997, a total of 47 terrorist acts were committed in Kosovo and Metohija. The largest number of terrorist acts were carried out against the facilities and personnel of the Ministry of the Interior (31) and against facilities for the accommodation of refugees and expellees from the Republika Srpska and Krajina (7), citizens (6) and other facilities (3). One attack was carried out against Yugoslav Army personnel. These attacks took 37 lives: 18 Interior Ministry personnel and 19 citizens, including 7 persons belonging to the Albanian national minority - loyal citizens of the Federal Republic of Yugoslavia and Serbia who, precisely because of that had been put on the blacklist for liquidation by Albanian terrorists. Fourteen persons died (4 Interior Ministry personnel and 10 citizens), and 9 persons sustained light injuries (5 Interior Ministry personnel and 4 citizens).

14. Criminal proceedings were instituted against a number of members of terrorist groups who had organized and carried out a large number of terrorist attacks against Interior Ministry personnel and citizens in Kosovo and Metohija in the period 1993-1997. It was established that some of these persons had undergone military training in special camps abroad from which they had brought in weapons the carrying out terrorist acts and armed rebellion.

15. In the period from 1996 until 15 August 1997, criminal charges were brought against 74 persons who had committed terrorist acts in Kosovo and Metohija. Most of them belonged to illegal organizations and groups and had initiated and carried out terrorist acts and possessed plans and sketches of vital military and police facilities, post offices, public health institutions, etc., indicating that they had planned large-scale terrorist actions.

16. Terrorist acts, abductions, rapes, torture and killings, as well as other forms of criminal activity by the terrorist gangs of Albanian separatists, in their scope and ruthlessness in terms of the method of execution, culminated in the course of 1998 when the list of their "activities" was expanded to include acts of genocide against citizens of Kosovo and Metohija of all nationalities who refused to accept their criminal objectives.

Article 2

Paragraphs 1 and 2

Legislative and other measures to ensure human rights and equality of citizens

17. The Federal Republic of Yugoslavia recognizes and guarantees the rights and freedoms of man and the citizen which are recognized by international law (art. 10 of the Federal Constitution). Likewise, the Federal Republic of

Yugoslavia recognizes and guarantees to national minorities the rights to preservation, development and expression of their ethnic, cultural, linguistic and other specificities, as well as to the use of their national symbols, in accordance with international law (art. 11 of the Constitution). Furthermore, citizens are equal irrespective of their nationality, race, sex, language, faith, political or other beliefs, education, social origin, property or other personal status. Everyone is equal before the law. Each person is bound to respect the rights and freedoms of others and is to be held responsible in that regard (art. 20 of the Constitution).

18. In conformity with the provisions of the Covenant, as well as its own constitutional and legal arrangements, abuse of the rights and freedoms of man and the citizen is unconstitutional and punishable in the Federal Republic of Yugoslavia. The rights and freedoms recognized and guaranteed by the Constitution enjoy the protection of the courts (art. 67 of the Constitution).

Rights of persons belonging to national minorities

19. The Constitution of the Federal Republic of Yugoslavia, adopted in April 1992, proceeds from the concept of civil democracy according to which the enjoyment of constitutional freedoms and rights is exclusively linked to the status of citizenship, i.e. is equal for all nationals irrespective of their national origin.

20. In addition to the provisions on universal freedoms and rights of man and the citizen, the Constitution contains nine provisions which directly relate to persons belonging to national minorities and which regulate the following rights and freedoms: equality on the basis of national origin; the right to preservation, development and expression of ethnic, cultural, linguistic and other specificities, and the right to the use of national symbols; the right to the official use of language and script in parallel with the Serbian language, in areas inhabited by persons belonging to national minorities; the freedom to express one's nationality, with guarantees that persons not wishing to express their nationality are not obliged to do so, as well as the freedom to express one's national culture; the right to use one's language and script and the right to an interpreter in proceedings before a court of law or a government authority or organization exercising public functions; the right to education in one's native language; the right to public information in one's native language; the right to establish educational and cultural organizations or associations; the right to establish and maintain unhindered mutual relations with co-nationals in the Federal Republic of Yugoslavia and abroad; the right to participate in the work of international non-governmental organizations, but not to the detriment of the Federal Republic of Yugoslavia or its member republics. As a special form of protection of persons belonging to national minorities, the Constitution prohibits - i.e. declares punishable - the incitement of national hatred or intolerance.

21. Article 48 of the Constitution, unlike the Covenant, envisages a special right for persons belonging to national minorities to maintain links and relations with their motherland. The Federal Republic of Yugoslavia thus wishes to develop good relations with its neighbours on the basis of equality, respect for sovereignty and territorial integrity, and mutual benefit. This serves the interests of all nations and is the basis of stability in the region. The

peoples of the Federal Republic of Yugoslavia and its neighbours are destined by history to live together and persons belonging to national minorities in these States should serve as a bridge of good-neighbourly cooperation.

Sanctions for violation of the equality of citizens

22. The provisions of paragraph 1 of article 2 of the Covenant and the relevant provisions of the Constitution of the Federal Republic of Yugoslavia are further elaborated by federal and republican laws in the following fields: substantive and procedural criminal and civil legislation; political organization and association of citizens; public information; education; official use of language and script; etc.

23. The Federal Republic of Yugoslavia applies the Criminal Law of the Federal Republic of Yugoslavia, the Criminal Law of the Republic of Serbia and the Criminal Law of the Republic of Montenegro. A single Criminal Code of the Federal Republic of Yugoslavia is in the process of being adopted; it will deal comprehensively and uniformly with all issues in the field of substantive criminal law for the entire territory of the Federal Republic of Yugoslavia.

24. A few of the relevant provisions of Yugoslav criminal legislation are outlined below.

25. The Criminal Law of the Federal Republic of Yugoslavia and the Criminal Laws of the member republics contain the crime of violation of the equality of citizens. The punishment prescribed in all three laws is the same, the only difference being in the quality of the perpetrator. The crime in question may be perpetrated by any person who is in a position to deny or restrict a right of citizens or to grant to citizens privileges and benefits. In most cases these are officials, military officers and other responsible persons. If the perpetrator is a federal government official or a military officer, he is answerable under article 186 of the Criminal Law of the Federal Republic of Yugoslavia; if the perpetrator is another person, he is answerable under article 60 of the Criminal Law of the Republic of Serbia or article 43 of the Criminal Law of the Republic of Montenegro.

26. Pursuant to these three provisions, whoever, on the basis of difference in nationality, race, confession, political or other opinion, ethnic origin, sex, language, education or social background, denies or restricts the rights of the citizen laid down by the Constitution, the law or any other regulations or general enactment or by a ratified international treaty, or whoever grants privileges or benefits to citizens on the basis of such difference, shall be punished by a term of imprisonment ranging from three months to five years. The victim may be one or several citizens of the Federal Republic of Yugoslavia whose rights or legitimate interests have been infringed.

27. Article 61 of the Criminal Law of the Republic of Serbia and article 43 of the Criminal Law of the Republic of Montenegro stipulate that it is a crime to deny or restrict the right of citizens to use their language or script. This crime may be committed against any citizen of the Federal Republic of Yugoslavia.

28. Article 134 of the Criminal Law of the Federal Republic of Yugoslavia stipulates that it is a crime to incite national, racial or religious hatred, division or intolerance among persons belonging to national minorities living in the Federal Republic of Yugoslavia and that it is punishable by a term of imprisonment ranging from 1 to 5 years. If this crime is committed with the use of coercion, abuse, a threat to security, exposure to ridicule of national, ethnic or religious symbols, damage to other people's property, or desecration of monuments, memorial monuments or graves, it is punishable by a harsher sentence - 1 to 10 years' imprisonment.

29. The gravest forms of the crime of incitement of national, racial or religious hatred, division or intolerance are those committed through the abuse of office or power, in which case they are punishable by 1 to 8 years' imprisonment. If these crimes result in unrest, violence or other serious consequences for the communal life of peoples or national minorities living in the Federal Republic of Yugoslavia, a sentence of 1 to 10 years' imprisonment may be pronounced.

30. The crime in question has three forms:

(a) Violation of basic human rights and freedoms recognized by the international community on the basis of different race, skin colour, nationality or ethnic origin - punishable by 6 months' to 5 years' imprisonment;

(b) Persecution of organizations or individuals for their advocacy of the equality of men - punishable by 6 months' to 5 years' imprisonment;

(c) Spreading the idea of the superiority of one race over another, advocacy of racial hatred or incitement to racial discrimination - punishable by 3 months' to 3 years' imprisonment.

31. The Law on Criminal Procedure, which is applied uniformly throughout the Federal Republic of Yugoslavia, stipulates that languages and scripts of national minorities in Yugoslavia shall be used on an equal footing in the criminal procedure in accordance with the Constitution and the law; that representations to the court may be addressed to the court also in a minority language which is not in official use in that court if that is in accordance with the Constitution, the law or any other regulation in force in the area under the court's jurisdiction; and that correspondence communicated by the court to persons belonging to national minorities shall be in their language provided that language is in official use in the court in question. However, the Law on the Official Use of the Languages and Scripts of the Republic of Serbia goes even beyond the Law on the Criminal Procedure and the Law on Litigations and makes it mandatory for courts to communicate court correspondence to persons belonging to national minorities in the minority language, at the latter's request, even in areas where languages of national minorities are not in official use.

32. The application of the Law on the Official Use of the Languages and Scripts of the Republic of Serbia is not limited only to the courts or to court procedures. All government authorities, authorities of the autonomous provinces, towns and municipalities, institutions, enterprises and other organizations are bound to apply the provisions of that Law when performing public functions, as

are public enterprises and public services. In addition, persons belonging to national minorities have the right to be issued public and other documents pertaining to the exercise of their legitimate rights in their language and script, including municipal records and records of authorities which perform public functions in the territory of the municipality, and to use their language and script in procedures relating to their rights and duties stemming from employment.

33. Finally, the republican laws on criminal sanctions contain numerous provisions on the right to humane treatment during imprisonment.

Citizenship

34. Citizenship is governed by the Law on Yugoslav Citizenship, which took effect on 1 January 1997. This Law prescribes the conditions for acquiring and for terminating Yugoslav citizenship, in accordance with international conventions and common principles of international law.

35. Under this Law, Yugoslav citizenship may be acquired: (a) by origin; (b) by birth in the territory of the Federal Republic of Yugoslavia; (c) by naturalization; (d) under international treaties.

36. The main manner in which Yugoslav citizenship is acquired is by origin (ius sanguinis). It appears in combination with acquisition of citizenship by birth in the territory of the Federal Republic of Yugoslavia (ius soli). Under the law, a child acquires at the time of birth the citizenship of its parents, regardless of its place of birth. It is only if both parents are unknown or of unknown citizenship, or stateless, that a child born or found in the territory of the Federal Republic of Yugoslavia will acquire Yugoslav citizenship. By a combination of these two rules, virtually every child one or both of whose parents are Yugoslav citizens, or who is born or found in the territory of the Federal Republic of Yugoslavia - if both parents are unknown or of unknown citizenship or stateless persons - can acquire Yugoslav citizenship.

37. In addition to the above-mentioned usual means of acquiring citizenship, bearing in mind the situation the Federal Republic of Yugoslavia is facing following the secession of the republics of the former Socialist Federal Republic of Yugoslavia, the transitional provisions of the Law on Yugoslav Citizenship stipulate that Yugoslav citizenship can, under certain conditions, be acquired by citizens of the former Socialist Federal Republic of Yugoslavia who had the citizenship of any of the former Yugoslav republics if they meet other requirements under the Law, irrespective of their national origin.

38. Thus persons who had the citizenship of any of the republics of the former Socialist Federal Republic of Yugoslavia and who had their domicile on 27 April 1992 in the territory of the Federal Republic of Yugoslavia may acquire Yugoslav citizenship if they do not hold the citizenship of any of the newly formed States in the territory of the former Socialist Federal Republic of Yugoslavia (article 47 of the Law). Likewise, citizens of the former Yugoslav republics who fled to the territory of the Federal Republic of Yugoslavia or abroad because of their national origin, or religious or political affiliation, may acquire Yugoslav citizenship provided they have not acquired the citizenship of any of the newly formed States in the territory of the former Socialist Federal Republic of Yugoslavia (article 48 of the Law).

39. Yugoslav citizenship may be terminated: (a) by release; (b) by renouncement; (c) under international treaties. The Law does not stipulate the institution of withdrawal of citizenship, which is in accordance with article 17, paragraph 3, of the Constitution of the Federal Republic of Yugoslavia, under which no Yugoslav citizen may be deprived of citizenship, expelled from the country or extradited to another State.

40. The Law on Yugoslav Citizenship expands on the institution of so-called reintegration. Citizenship may be reacquired not only by a person whose Yugoslav citizenship terminated at the request of his parents, as prescribed by earlier laws on citizenship, but by any person whose Yugoslav citizenship terminated following release from citizenship and who has acquired foreign citizenship, if he spends at least a year in the Federal Republic of Yugoslavia without interruption and meets all the requirements under the Law.

Status of foreigners

41. Article 66 of the Constitution of the Federal Republic of Yugoslavia sets forth the rights of foreign nationals in the country, pursuant to the standards of international law and international treaties which Yugoslavia has acceded to. A foreign national in the Federal Republic of Yugoslavia has the freedoms, rights and duties laid down by the Federal Constitution, the federal law and international treaties.

42. Foreign nationals may, for example, use their name, stay in a place or move about, and procure and carry arms under the conditions prescribed by the Law on the Movement and Stay of Foreign Nationals, unless stipulated otherwise by international law. During their stay in the Federal Republic of Yugoslavia, foreigners must abide by regulations and decisions of competent agencies based on the Federal Constitution, the law and Yugoslavia's commitments stemming from international treaties which it has acceded to.

43. The Law on the Basic Principles of Labour and the Law on Conditions of Employment stipulate that foreign nationals and stateless persons may take up employment if they fulfil the conditions laid down by the law, the collective contract and the employers' general enactment. The requirements which a foreign national or stateless person must meet are identical to those applying to nationals of the Federal Republic of Yugoslavia. In addition, foreign nationals and stateless persons must meet certain specific conditions which do not apply to Yugoslav nationals and which are set out in the Law on Terms of Employment of Foreign Nationals, in particular: (a) they must have a permit for permanent settlement or temporary residence in the Federal Republic of Yugoslavia; (b) they must have an authorization to take up employment with a particular employer. Exemption from these requirements is granted if a foreign national is employed to carry out duties under a contract for business/technical cooperation, long-term production cooperation, transfer of technology or foreign investment.

44. Chapter I of the Law on the Basic Principles of Property Legal Relations regulates rights of foreign nationals. Article 82 of the Law stipulates that foreign physical and legal persons may acquire movable property under the same conditions as Yugoslav nationals. Article 82 (a) stipulates that foreign physical and legal persons carrying out an activity in the Federal Republic of Yugoslavia may, on conditions of reciprocity, acquire immovable property that is indispensable for the performance of their activity. A foreign physical person who does not perform an activity in the Federal Republic of Yugoslavia may, on

conditions of reciprocity, acquire an apartment or a residential building under the same conditions as a Yugoslav national. As an exception to paragraphs 1 and 2 of article 82, the federal law may stipulate that a foreign physical or legal person may not acquire immovable property in certain parts of the country.

45. Article 85 (a) of the Law on the Basic Principles of Property Legal Relations stipulates that an enterprise engaged in tourist or catering activity may lease a tourist or other auxiliary facility on a long-term basis to a foreign physical or legal person under the terms and conditions set out in a written contract. A long-term lease may be concluded for not less than five and not more than 30 years. Upon the expiry of the contracted period, the lease may be extended. At the request of the lessee, the long-term lease may be entered in the registry or registered in any other manner specified by law. A long-term lease which has been entered in the registry has legal force with respect to any owner who acquires the property at a later date.

46. Article 8 of the Enterprise Law stipulates that foreign legal and physical persons may, on conditions of reciprocity, establish enterprises in accordance with that Law and with the federal law regulating foreign investments.

47. Article 1 of the Law on Foreign Investments stipulates that foreign nationals may, for the purpose of performing activities in the Federal Republic of Yugoslavia, invest funds, on conditions of reciprocity, in enterprises and other organizations for the performance of activities or services, and may establish enterprises in accordance with that Law and other federal laws, as well as obtain permits (concessions) for the use of natural resources and goods in the public domain, or for the performance of activities of general interest.

48. The Decree on the Establishment of Representative Offices of Foreign Persons in Yugoslavia regulates the procedure for the establishment and the principles for the work of such representative offices.

49. Article 5 of the Regulations on Foreign Trade Arbitration of the Yugoslav Chamber of Commerce and Industry stipulates that foreign nationals may also be arbitrators.

50. Article 7 of the Law on Inheritance stipulates that foreign nationals in the Republic of Serbia have, under conditions of reciprocity, the same status in terms of inheritance as Yugoslav nationals, unless stipulated otherwise by an international treaty.

51. The familiarization of foreigners, under the jurisdiction of a State party, with the provisions of the Covenant and the rights guaranteed by it is regulated by the Law on the Publication of Federal Laws, Other Regulations and General Enactments.

Paragraph 3

Effective remedies; The judiciary and the right to appeal

52. Courts in the Federal Republic of Yugoslavia protect the freedoms and rights of the citizen and the rights and interests of legal persons laid down by law, and guarantee constitutionality and legality. These activities are carried out by the courts of general jurisdiction and by specialized courts.

53. The courts which try cases concerning the protection of human rights and freedoms are, as a rule, the courts of general jurisdiction. They include: municipal courts in the Republic of Serbia and basic courts in the Republic of Montenegro; and district courts in the Republic of Serbia and higher courts in the Republic of Montenegro. There is a Supreme Court in each member republic, while the Federal Court is the judicial authority of the federal State. Criminal cases against military officers and certain penal offences committed by military officers are tried by military courts. The Yugoslav legal system makes it possible for every individual to institute proceedings before the Federal Constitutional Court in order to annul an act or prohibit an action violating a freedom or a right guaranteed by the Constitution of the Federal Republic of Yugoslavia.

54. Municipal and basic courts are first-instance courts whose jurisdiction, in addition to civil, labour and other cases, also covers criminal cases. They rule on penal offences which are punishable by a fine or by a term of imprisonment of up to 10 years, unless the offence falls under the responsibility of the district or higher court; they try penal offences which, under a special law, fall under their responsibility; they undertake investigations, adjudicate on appeals against decisions made by an investigating judge and rule on complaints concerning indictments for criminal offences falling within their competence; they rule on disputes over compensation for damages to persons convicted or deprived of liberty without justification; and they conduct proceedings and make proposals in response to requests for the annulment of judgements or for the discontinuation of security measures or the discontinuation of the legal consequences of a sentence, and decide on these matters in cases where such a measure or sentence was imposed by themselves.

55. Municipal and basic courts adjudicate crimes in a three-member chamber made up of a justice and two justices-jurors, except when they try crimes punishable by a term of imprisonment of up to one year or a fine (such crimes are decided on by a single judge). Investigative activities are the responsibility of the investigating judge and only in exceptional cases of the police (mainly on the order of the investigating judge), while appeals against the investigating judge's decisions are decided on by a three-member chamber.

56. District and higher courts are largely courts of appeal. They are also first-instance courts in particular cases envisaged by law: when they try persons for crimes which are punishable by a term of imprisonment of more than 10 years or by the death penalty, as well as for crimes which fall under their jurisdiction; when they conduct investigations, decide on appeals against decisions made by an investigating judge and on complaints against indictment for crimes which fall under their jurisdiction; when they decide on a request for the annulment of a judgement based on a court decision; or on a request for the discontinuation of security measures or the discontinuation of a legal consequence of a judgement which relates to a ban on the acquisition of certain rights, if the judgement or measure has been pronounced by the court in question; and when they conduct proceedings or decide on a request for the extradition of convicts or defendants.

57. There is also a Supreme Court in each member republic which, as the highest court, usually, rules on legal remedies against decisions made by lower-instance courts. It is before the Supreme Court that most judicial proceedings of the judicial authorities of the member republics end.

58. The Supreme Court is, among other things, responsible for deciding on regular legal remedies against decisions made by district or higher courts; deciding on extraordinary legal remedies against binding decisions in accordance with the law; ruling on appeals in the third instance against second-instance decisions made by courts in the republic; and deciding on legal remedies against decisions made by the chamber of the Supreme Court.

59. It should be pointed out, in particular, that the Supreme Court is competent to decide in the first instance on requests for the protection of rights and freedoms laid down by the Constitution if such rights and freedoms have been violated by a final individual act and if no other judicial protection has been provided in such cases.

60. It is to be noted that a procedure is a three-instance procedure only if the second-instance court has pronounced a death sentence or sentenced the defendant to a term of imprisonment of 20 years, or if it has confirmed such a verdict reached by the first-instance court. A procedure will also be a three-instance procedure when the second-instance court changes a decision by the first-instance court whereby the defendant was acquitted and pronounces him guilty.

61. The Federal Court is a court of the federal State whose responsibility is laid down by the Constitution of the Federal Republic of Yugoslavia, the Law on the Federal Court and the laws on judicial procedures (criminal and civil). As regards the jurisdiction of the Federal Court over the protection of human rights and freedoms, it rules on extraordinary legal remedies against decisions made by courts in the member republics and military courts in matters relating to the enforcement of federal law; and it decides on the legality of final administrative acts of federal authorities.

62. In addition to the courts of general jurisdiction, military courts also have a certain degree of jurisdiction in the field of protection of human rights and freedoms. Military courts in the Federal Republic of Yugoslavia are part of the judicial system; they apply procedural and substantive legal regulations which are applied by courts of general jurisdiction, meaning that they are not part of a separate system of courts, as in most other countries, before which separate legal acts are applied. They exist both in peacetime and in time of war.

63. Military courts are, among other things, competent to try military officers for all penal offences committed by them; prisoners of war for all criminal offences which they commit as prisoners of war; civilians who have the status of civilians employed by the Yugoslav Army for any penal offences committed by them in their line of duty or in connection with it.

64. The Federal Constitutional Court rules on constitutional complaints when no other legal protection is provided. In particular, it rules on complaints alleging violation of the freedoms and rights of man and the citizen laid down in the Federal Constitution.

65. A constitutional complaint may be filed by any person who holds that a freedom or right laid down in the Federal Constitution has been violated by an individual act or action carried out by judicial, administrative or other government authorities or enterprises and organizations performing public functions. A constitutional complaint, on behalf of such a person, may be filed

by an association of citizens, a relevant legal person or the competent federal authority.

66. The right to appeal is a constitutional right. Article 26 of the Constitution of the Federal Republic of Yugoslavia stipulates that everyone is guaranteed the right to appeal or to resort to another legal remedy against a ruling which infringes a right or legally based interest. The use of appeal as a legal remedy in criminal cases is regulated by the Law on Criminal Procedure (arts. 359-399).

67. Certain basic principles are followed by courts in deciding on an appeal. As a rule, an appeal is lodged against a decision of a first-instance court (one may also lodge an appeal against a judgement of a second-instance court - to the Federal Court). An appeal is submitted by a public official, as a rule, not later than 15 days after the serving of the judgement. A timely appeal delays the enforcement of a judgement. An appeal must contain an explanatory note refuting a decision (e.g. a major violation of the criminal procedure provisions, a violation of the criminal law, an inadequate or partial inquiry into the facts) and a reformatio in peius ban is in force when the court rules on an appeal.

68. Regarding protection of the right to appeal, it is recalled that the Constitution of the Federal Republic of Yugoslavia contains a general commitment that rights and freedoms recognized and guaranteed by the Constitution, and thus the right to appeal, enjoy the protection of the courts (see para. 18 above).

69. Violation of the right to appeal or to resort to another legal remedy is punishable by law. The Criminal Law of the Federal Republic of Yugoslavia and the Criminal Laws of the member republics contain this offence and stipulate a sentence of three months' to three years' imprisonment.

Compensation for damage

70. The right to compensation for damage is guaranteed by the Constitution of the Federal Republic of Yugoslavia in the following cases: unlawful or improper action of a public official, State body or organization exercising public power, when the State must compensate for the damage (art. 123); an unjustified verdict for a criminal offence or deprivation of freedom, in which case a person has the right to rehabilitation and compensation from the State, and other rights stipulated by federal law (art. 27).

71. According to a provision of article 541 of the Law on Criminal Procedure, a person against whom a punishment has been pronounced or who has been declared guilty and released from the punishment, if a new procedure is subsequently stayed or the charges against that person are dropped, has the right to compensation for damage due to an unjustified verdict. A citizen has the right to compensation for property and non-property damage, namely for lost or reduced salary; for unexercised employment rights (child allowances, annual leave entitlement, etc.); for health deterioration due to the serving of the sentence or detention or due to unreceived health care; for reimbursement of expenditure for sending food and other items to the sentenced person; for reimbursement of the travel costs of those having visited the sentenced person; for reimbursement of the costs of the criminal procedure and of any fine paid; and for a property application due to the unjustified verdict.

72. Laws in the republics also contain appropriate provisions regarding compensation for property and non-property damage due to unjustified punishments. The procedure for compensation is initiated by submitting a request to the Ministry of Justice of the republic. If the Ministry of Justice and the party concerned do not reach an agreement regarding the amount of compensation, the party has the right to prosecute the case by pressing charges before a competent court.

73. In the Republic of Montenegro, for example, the number of cases for compensation for damage in recent years has been: in 1992 - 10 cases, four of which ended with the parties reaching a settlement; in 1993 - 8 cases, three of which ended with the parties reaching a settlement; in 1994 - 13 cases, 8 of which ended with the parties reaching a settlement, in 1995 - 14 cases, one of which ended with the parties reaching a settlement; in 1996 - 15 cases, none of which have yet been settled; and in 1997 - 73 cases, none of which have yet been settled.

74. Where a settlement with the party was reached, the compensation was made immediately by payment of a sum of money to the party; if the rights were exercised through a court, it was made after the court ruling came into force.

Article 3

75. Men and women enjoy equal rights and freedoms in the Federal Republic of Yugoslavia. The right to vote is a general and equal right of all citizens. Accordingly, women may also vote and be elected. Women take part in decision-making at all levels of the State authorities. They are represented in the Federal Assembly and the republic Assemblies, as well as in the executive bodies.

Table 1. Composition of federal, republic and municipal Assemblies

	Number of delegates/deputies	
	Total	Women
Federal Assembly (1992/1993 elections)	178	5
Chamber of Citizens	138	4
Chamber of Republics	40	1
Republic Assemblies		
Republic of Serbia (1993 elections)	250	16
Republic of Montenegro (1996 elections)	71	6
Municipal Assemblies		
Republic of Serbia	7 574	349
Republic of Montenegro	717	39

76. The following governmental bodies deal with the situation and rights of women: the Ministry for Family Care of the Republic of Serbia, the Federal Government Commission for the Advancement of Women and the Council for Population and Children of the Government of the Republic of Serbia.

77. Education is accessible to everyone in the Federal Republic of Yugoslavia under equal conditions. No distinction is made with regard to gender; there are no schools for girls or boys only, and no schools that segregate children according to their social status or place of residence.

78. According to data of the Federal Bureau for Statistics, 325,410 pupils attended secondary schools in the Republic of Serbia in the school year 1996/97, of whom 165,226 were girls. Grammar school attendance was 75,857 pupils, of whom 48,298 were girls. There were 170,533 students at universities and colleges, of whom 91,798 were girls. Of the total of 80,290 primary school pupils in the Republic of Montenegro, 39,092 were girls; and of the 26,936 secondary school pupils, 13,723 were girls.

Table 2. Educational establishments in the Federal Republic of Yugoslavia: attendance, 1992-1996

	1992	1993	1994	1995	1996
Primary schools	938 526	937 392	914 585	903 088	914 532
Girls	455 422	455 488	445 821	440 191	445 254
Secondary schools	335 631	341 025	334 616	338 721	352 346
Girls	169 772	172 604	169 624	170 934	178 949
Universities and academies	115 725	115 045	117 992	131 689	138 808
Girls	63 328	63 445	65 077	71 964	76 233

Source: Annual statistical research.

79. Labour legislation treats men and women equally in the Federal Republic of Yugoslavia (as regards job requirements, working conditions, salaries, etc.). However, more women than men are employed in fields of work and in posts which are less well paid, so that the average salary of women is lower than that of men.

80. According to family laws in force in the member republics (Law on Marital and Family Relations of the Republic of Serbia and Family Law of the Republic of Montenegro), women and men are absolutely equal as regards personal and property rights.

81. Equality is guaranteed in marital relations as well as in matters relating to children: men and women are equal as regards fostering, adoption and supporting children. Parental rights and obligations are shared by both father and mother and both parents exercise parental rights together and by agreement.

If one parent dies or is not able to exercise his or her parental rights and obligations, such rights and obligations are exercised solely by the other parent.

Table 3. Active population of the Federal Republic of Yugoslavia, by profession

		Total	Women
MANAGERS		67 302	12 615
Members of socio-political communities and executive bodies		4 842	1 528
of which:	Officials executive bodies	1 227	289
	High officials of courts and attorneys' offices	625	140
Executives of business associations, companies, etc.		60 537	10 463
Executives of chambers of general associations		1 923	624
EXPERTS AND ARTISTS		483 514	257 334
Experts in technical and technological sciences		113 414	32 386
of which:	Architects	3 732	1 677
	Town planners	156	82
Traffic experts		7 730	1 147
Scientific experts		18 059	5 122
Medical experts		105 948	81 437
Other experts		121 548	71 516
of which:	Lawyers	22 891	10 841
	Journalists	7 637	2 974
Teaching staff		102 316	60 705
Artisans and apprentices		14 499	5 021

Source: 1991 census.

82. Under the Law on Yugoslav Citizenship, marriage to a Yugoslav citizen does not automatically provide a foreigner with the right to Yugoslav citizenship, but it does guarantee approval for permanent residence in the Federal Republic of Yugoslavia in keeping with the regulations regarding the movement and residence of foreigners - and permanent residence is one of the conditions for acquiring Yugoslav citizenship by naturalization (art. 12 of the Law).

Article 4

Paragraph 1

83. The term "public emergency" in article 4 of the Covenant corresponds to the terms "state of war", "state of immediate danger of war" and "state of emergency" in the Constitution of the Federal Republic of Yugoslavia and other Yugoslav regulations in force.

84. According to article 78, subparagraph 3, of the Constitution, the Federal Assembly is responsible for declaring a state of war, a state of immediate danger of war or a state of emergency.

85. Pursuant to article 99, subparagraph 10, of the Constitution, the Federal Government may, after hearing the opinions of the President of the Republic and the presidents of the Federal Assembly Chambers, declare a state of war, a state of immediate danger of war or a state of emergency if the Federal Assembly is not in a position to do so.

Paragraph 2

86. Acts enforced by the Federal Government under circumstances set out in the Constitution of the Federal Republic of Yugoslavia may, during such circumstances, restrict certain freedoms and rights of man and the citizen.

87. However, not even in a state of war, a state of immediate danger of war or a state of emergency may rights and freedoms referred to in articles 20, 22, 25-29, 35 and 43 of the Constitution be restricted (i.e. equality of citizens; inviolability of physical and mental integrity of the individual, inviolability of privacy and personal rights, and personal dignity and security; respect for human personality and dignity in criminal and any other proceedings, prohibition of violence against persons deprived of liberty, and prohibition of torture, humiliation and forced confessions; the right to appeal and other legal remedies; the right to rehabilitation and compensation for wrongful conviction or wrongful detention; protection from punishment for an act that was not punishable by law at the it was committed; protection against resentencing for an offence for which proceedings have been legally stayed or charges dropped; freedom of conviction, conscience, thought and public expression; and freedom of confession, public or private profession of religion, and performance of religious rites).

88. The Federal Government must submit acts introduces during a state of war for approval by the Federal Assembly as soon as it can be convened.

89. The conduct of State bodies, such as the army and police, in a state of war, a state of immediate danger of war or a state of emergency is regulated by the Law on Defence (1994), which applies throughout the country. This Law envisages that, at such times, State bodies are obliged to undertake measures and actions in keeping with the obligations set out in the plan for comprehensive mobilization and the plan for organizing preparations for defence, as well as with the decisions of the Federal Government (the Federal Government orders a comprehensive mobilization and proposes plans determining the obligations of all conscripts).

90. If a state of war, a state of immediate danger of war or a state of emergency is declared, internal security forces may be used for combat missions, i.e. for taking part in combat or offering armed resistance (art. 17 of the Law). In such a case, these forces are placed under the command of the head of the Yugoslav Army, who directs combat actions.

91. Citizens are obliged, in a state of war, a state of immediate danger of war or a state of emergency, to take part in civil defence, to undergo defence training, to work and to give financial support (arts 20-30 of the Law).

Paragraph 3

92. A state of war, a state of immediate danger of war and a state of emergency have never been declared in the Federal Republic of Yugoslavia.

Article 5

Paragraphs 1 and 2

93. The Federal Republic of Yugoslavia ratified the Covenant pursuant to article 16 of its Constitution and fulfils most of the obligations stemming from the international treaties to which it is a party.

Article 6

Paragraph 1

Inviolability of life

94. Human life is inviolable under article 21, paragraph 1, of the Constitution of the Federal Republic of Yugoslavia. Health and environmental protection are regulated by law.

Health protection

95. Federal laws on the protection of the population from communicable diseases which might be brought into the country and spread are the basis for action programmes for preventing and combating such diseases nationwide.

96. Health care for the population of the Republic of Serbia is ensured and regulated by the Constitution of the Republic of Serbia (arts. 30, 40 and 68), the Law on Health Care and the Law on Health Insurance. Pursuant to the Law on Health Care, the Government of the Republic of Serbia has enacted the Decree (Programme) for the Protection of the Population from Communicable Diseases, and the Decree (Programme) for the Protection of the Health of Women, Children, Schoolchildren and Students.

97. There are 265 State institutions in the Republic of Serbia responsible for health care and the implementation of the above-mentioned programmes: 78 health care centres, 1 general hospital, 18 specialized hospitals, 57 institutes, 7 clinical hospitals, 25 pharmacy centres, 8 pharmacies, 22 health care

institutes, 40 health centres, 6 clinic-hospital centres and 3 clinical centres. In addition to State health care institutions, there are 3,500 other registered centres for providing health care services. Health care services in Kosovo and Metohija are provided in 20 institutions. There are health care centres in all municipalities, while the municipal districts of Pristina, Pec, Prizren, Kosovska Mitrovica and Gnjilane, as well as the municipality of Djakovica, have health centres comprising health care centres and general hospitals. All health care centres and general hospitals also have clinics and in-patient wards for the health protection of women and children. The Health Care Institute in Pristina is responsible for hygiene-epidemiological and socio-medical health care in the region of Kosovo and Metohija and it has accessory wards in district centres. There is a clinic-hospital centre in Pristina (including clinics), which is also a teaching centre for the Pristina School of Medicine. Due to the shortage of funds in health insurance subsidiaries in Kosovo and Metohija, the Republic Health Insurance Institute allocates from the solidarity fund more than 50 per cent of the assets required each year for the health care of the population.

Table 4. Infant mortality rates

	1981	1986	1990	1995	1996
Republic of Serbia	35	32	23.2	17.2	15.1
Serbia proper	23.8	22.1	17.2	15	15.3
Vojvodina	17.5	16.5	14.1	10.6	12.3
Kosovo and Metohija	62.9	56.1	34.4	23.6	15.9
Republic of Montenegro	22.8	26.7	16.6	12.1	14.0

98. The Programme for the Protection of the Population from Communicable Diseases stipulates general goals and measures for the prevention, combating and elimination of communicable diseases by the year 2000. The formulated goals, measures and estimates of the Programme for the Protection of the Health of Women, Children, Schoolchildren and Students are based on the goals of WHO for the European region under the Global Strategy for Health for All by the Year 2000 and on the "Goals for Children and Development in the 1990s" recommended by UNICEF and WHO, inter alia, at the 1990 World Summit for Children.

Table 5. Number of persons affected by communicable and parasitic diseases in the Republic of Serbia, 1992-1996

	Acute communicable diseases	Tuberculosis	Total
1992	118 767	3 721	122 488
1993	113 576	3 528	117 104
1994	144 375	3 589	147 964
1995	160 168	3 975	164 143
1996	118 189	3 584	121 773
Total	655 075	18 397	673 472

99. One of the most important preventive measures for the protection of the population as a whole, especially newborn children and infants, is compulsory immunization. A compulsory Immunization Programme has been successfully implemented in the Republic of Serbia in recent years.

100. Throughout 1996, 1997 and 1998, a Poliomyelitis Eradication Programme was also successfully implemented. In 1996, under the WHO Global Strategy regarding polio eradication by 2000, Subnational Immunization Days (SID) were held in Kosovo and Metohija and in 14 municipalities of Serbia proper, covering 98 per cent of children; 265,735 children up to five years of age were immunized, of whom 43,000 had previously been unregistered in Kosovo and Metohija. In 1997, in Kosovo and Metohija, in 12 municipalities of Serbia proper and in eight municipalities of the Republic of Montenegro, 265,130 children - 94 per cent - were immunized, of whom 14,603 had previously been unregistered in Kosovo and Metohija. The SID campaign was carried out only in Kosovo and Metohija in 1998 (April and May), when 160,776 children up to five years of age - 87 per cent - were immunized.

101. In the Republic of Montenegro, the Plan for Health Care Development for the period 1996-2000 envisages that the Republican Health Fund will implement health care plans, i.e. programmes for the implementation of the development plan for each year, while health care institutions carry out annual plans of work. Social care for children and youth has a prominent place in these plans.

102. All health care centres and health stations in the Republic of Montenegro have a network of mother-and-child guidance clinics which provide pre-conception protection, monitoring of normal and complicated pregnancies and of the intrauterine development of the baby, and delivery of the required measures for the healthy birth, development and growth of infants, pre-school children and schoolchildren, and for full health care for mothers in their generative period.

103. In this manner, birth of malformed children and children with inherited handicaps is prevented, an exception being cases caused by defects of metabolism, since no screening is carried out for hyperthyrosis, dystrophy, phenylketonuria and other metabolopathies.

104. The development of a network of field health care centres, with the presence of a paediatrician in out-patient wards, creates far more favourable conditions for the growth and development of children living in villages. Such activities are limited by unfavourable infrastructural facilities in villages, particularly the shortage of drinking water, roads and other important elements for the health of the population.

Environmental protection

105. The federation, the republics and the municipalities share responsibilities regarding environmental protection in the Federal Republic of Yugoslavia. Ministries for environmental protection have been established at the level of the republics and the federation. The advancement of organizational-institutional conditions implies enabling administrative bodies to manage the environment efficiently in keeping with the concept of sustainable development.

Competences and scopes of activity have been clearly defined, and activities are coordinated among several bodies at the three levels (federal, republican and local).

106. A set of legal norms in the field of environmental protection and promotion are incorporated in the Constitution of the Federal Republic of Yugoslavia and comprise a number of laws (more than 150) and other regulations (more than 100) at all levels. The Federal Republic of Yugoslavia has ratified 52 international treaties laying down international commitments in the field of environmental protection. The ratification of other international agreements in this field is pending, as is the harmonization of national legislation with that of European Union and with documents on the environment adopted by the Organization for Security and Cooperation in Europe and the Council of Europe.

107. At the federal level, the Resolution on Environmental Protection Policy in the Federal Republic of Yugoslavia and the Resolution on Biodiversity Preservation Policy in the Federal Republic of Yugoslavia have been adopted. Separate laws regulate particular fields of environmental protection, such as the water regime of the country and the regime of international waters; hydrometeorological activities; transport of dangerous substances; trade in explosive and toxic substances; protection from ionizing radiation; production of narcotics; protection of animals from communicable diseases; and protection of plants from disease and vermin. The Federal Law on the Bases of Environmental Protection was enacted in April 1998. This Law lays down, for the first time, uniformly regulated principles, criteria and measures for environmental protection, financing and monitoring of environmental development, responsibilities regarding environmental pollution and surveillance which will ensure a healthy environment in the Federal Republic of Yugoslavia.

108. The Law on Environmental Protection has been enacted in the Republic of Serbia and the Law on the Environment in the Republic of Montenegro.

109. Protection from ionizing radiation and radioactive substances lies within the competence of the federal State. This field is directly regulated by the Law on Ionizing Radiation Protection, which lays down general measures of protection, special measures for securing nuclear facilities and nuclear substances, and surveillance procedures and powers, as well as penalties in that regard. The Law on the Prohibition of the Building of Nuclear Power Plants, which also prohibits facilities using nuclear fuels, also regulates this field.

110. Trade and transport of explosive and dangerous substances are regulated by the Federal Law on Trade in Explosive Substances and the Federal Law on Trade in Dangerous Substances, which set conditions for the possession, trade and transport of such substances and stipulate procedures for surveillance and penalties. The Federal Republic of Yugoslavia has so far ratified the European Agreement on International Road Transport of Dangerous Goods and amendments to the annex thereto, conventions on international railway transport and conventions on the protection of human lives at sea. Preparations in connection with the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal are under way, and will require amendments to federal laws covering this field.

111. Protection from industrial accidents has not been regulated by a uniform federal law to date, but partially by the Law on Environmental Protection of the Republic of Serbia. The Government of the Republic of Serbia has adopted a Decision on the setting up of a coordinating team for large-scale chemical accidents,5/ which is a professional advisory body of the Government through which it coordinates all activities in implementing measures and assignments in case of chemical accidents in the republic. The Government of Serbia has sent a communication to the Federal Government pointing to the need to establish a similar coordinating team at the federal level.

112. Trade in toxins is regulated by the Federal Law on Production and Trade in Toxic Substances and by a number of by-laws. The federal Law stipulates certain fields of environmental protection from toxins, categorization of toxins and conditions for their sale and use, removal of toxic waste and packaging, competences regarding the implementation of regulations on trade in toxins, surveillance and penalties. The Law also contains certain clarifications regarding the production and use of toxins.

The use of firearms

113. The use of firearms is regulated by laws of the republics on internal affairs.

114. The Law on Internal Affairs of the Republic of Serbia stipulates that an authorized official may use firearms in the line of duty only if, by using other means of coercion or in some other way, he cannot (a) protect human lives; (b) prevent the flight of a person caught committing certain criminal offences, namely an attack on the constitutional order, endangering of territorial integrity, undermining military or defence power, violence against a representative of the highest State authority, armed mutiny, terrorism, sabotage, violation of territorial sovereignty, hijacking, jeopardizing the safety of an aircraft, murder, rape, serious stealth, and serious cases of burglary and robbery; (c) prevent the flight of a person caught committing a criminal offence prosecuted *ex officio*, if there are reasonable grounds to believe that he possesses a firearm and intends to use it; (d) prevent a person deprived of liberty or a person wanted for any of the above-mentioned criminal offences from fleeing; (e) prevent an attack on himself; (f) prevent an attack on a facility or a person guarding it.

115. When using firearms, an authorized official must not endanger the lives of other people. Provisions of the Regulations on Conditions and Methods of Using Means of Coercion refer to this point, as well as to the duty of an authorized official to preserve human life and dignity.

116. An authorized official must submit a written report about each use of means of coercion to his immediate supervisor not more than 24 hours following the incident. The justifiability and adequacy of the use of the means of coercion, including firearms, are assessed by the senior official in the Ministry of the Interior of the republic duly authorized by the Minister of the Interior. The authorized official may propose to the Minister of the Interior of

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5/ See Official Gazette of the Republic of Serbia, No. 47/1997.

the republic that legally prescribed measures be taken in the case of unjustifiable or inadequate use of means of coercion (art. 31 of the Regulations on Conditions and Methods of Using Means of Coercion). Disciplinary and other measures, including the termination of employment and criminal charges, are taken against all authorized officials who have used means of coercion unjustifiably or inadequately.

117. Between 1992 and 1997, officials of the Ministry of the Interior of the Republic of Serbia violated their legal powers regarding the use of firearms in carrying out public functions six times (twice in 1992, once in 1993, once in 1994 and twice in 1997), when three persons died (in Krusevac, Urosevac and Kosovska Mitrovica), two sustained serious injuries (in Belgrade and Urosevac) and one person sustained light injuries (in Subotica). Criminal charges were brought against four police officers for the crimes of murder (three cases) and inflicting serious injuries (one case). In three of these cases, the trial is under way (in Belgrade, Krusevac and Kosovska Mitrovica), and the other case ended with the police officer being sentenced to four year and six months' imprisonment (in Urosevac).

118. The Law on Internal Affairs of the Republic of Montenegro stipulates identical conditions governing the use of firearms by authorized officials to those in corresponding law of the Republic of Serbia (see para. 114 above).

119. Between 1992 and 1997 in the Republic of Montenegro, two cases were reported in which two persons lost their lives due to illegal use of firearms and physical force by police officers (in Niksic in 1993 and in Kotor in 1996). After the legal proceedings, both officers were sentenced to imprisonment.

120. The Law on the enforcement of criminal laws of the Republic of Montenegro stipulates that an authorized official working in a prison may use firearms in the line of duty only if he cannot prevent an attack threatening his life or the lives of other people in another way, in order to repel an attack on the facility he is guarding, to prevent a prisoner in a closed or semi-closed ward from fleeing, or to prevent the flight of a prisoner serving a sentence of 10 years or longer.

121. If a firearm has been used, a report containing the facts and an assessment of any overstepping of powers must be submitted to the Minister of Justice of the republic within three days.

122. Between 1992 and 1997, authorized officials working in prisons in the Republic of Serbia and the Republic of Montenegro committed no violations of these legal provisions, and no loss of life occurred.

Disappearance of persons

123. Pursuant to their legal duties and powers, the internal authorities of the Federal Republic of Yugoslavia search for all missing persons (minors and adults) whose disappearance has been reported by their families or who there are reasonable grounds to believe are victims of a criminal offence, a car or other accident, a natural disaster, etc. The police carry out adequate search

procedures using computer data banks on missing persons. If a missing person is found to be a victim of a criminal offence, legal action is taken against the offender or offenders.

124. If, at the moment of disappearance, it is not possible to determine whether the missing person is or is not a victim of a criminal offence, the police also search for the person pursuant to laws and by-laws stipulating police procedure in searching for the missing. For the purpose of a more effective search for missing persons and for the identification of bodies, as well as for investigating the events concerning missing persons, the police collect, register, process and use data on such events by means of automatic data-processing, which is regulated by relevant by-laws.

125. The disappearance of a person is registered by means of a report of disappearance submitted to the Ministry of the Interior of the republic. The data in the report are recorded and processed in a computerized missing persons register. Special members of the criminal investigation police establish the circumstances of the disappearance, find the missing person and, if necessary, identify the body, taking all necessary measures falling within their jurisdiction, and then submit a report to the competent public prosecutor, i.e. a court, pursuant to the Law on Criminal Procedure. An account of their activities is published in the Daily Bulletin on Searches for Missing Persons.

Paragraph 2

126. Capital punishment may not be envisaged for the criminal offences laid down by federal law (art. 21, para. 2, of the Constitution of the Federal Republic of Yugoslavia).

127. Capital punishment may be pronounced exclusively for the most serious types of crime (art. 14, para. 2, of the Constitution of the Republic of Serbia). A similar provision exists in the Constitution of the Republic of Montenegro.

128. Capital punishment may be pronounced in cases where a person is criminally liable under republican law (art. 34 of the Criminal Code of Yugoslavia).

129. Republican criminal laws provide for capital punishment for only two crimes: murder and serious cases of robbery and stealth involving premeditated murder (arts. 47 and 169 of the Criminal Code of the Republic of Serbia; arts. 30 and 148 of the Criminal Code of the Republic of Montenegro). In such cases, capital punishment is always prescribed as an alternative to at least 10 years' imprisonment. Capital punishment or imprisonment may be pronounced only as the main penalty, whereas a fine may be pronounced as both main and secondary punishment. If several punishments are prescribed for a criminal offence, only one may be enforced as the main punishment.

130. Capital punishment is carried out by shooting, without the public present.

131. The justification for capital punishment is under serious consideration in the Federal Republic of Yugoslavia. Thus, for example, the single Criminal Code of Yugoslavia, which is under preparation, does not provide for capital punishment, which is replaced by life imprisonment for the most serious crimes.

As the abolishment of capital punishment has been supported in the public debate on the draft Criminal Code, it will in all likelihood be abolished.

132. In the Republic of Serbia, capital punishment may be pronounced by a district court in the first instance, and by the Supreme Court of Serbia if the sentence of the district court is overruled. A sentence of capital punishment may be carried out unless the court establishes that the convicted person has been amnestied or pardoned or is mentally ill. The death penalty may not be carried out on a pregnant woman, nor during a period of one year after her delivery. The President of the district court is obliged to check all circumstances before an execution and it is only then that he may make a special ruling determining that there are no reasons to prevent the execution. The convicted person may lodge an appeal against any first-instance ruling with the President of the Supreme Court of Serbia, within eight days from the date of the receipt of the ruling.

133. In the Republic of Montenegro, higher courts prosecute murder cases and are competent to pronounce capital punishment. A higher court is a second-instance court for basic courts, which try criminal offences entailing imprisonment for up to 10 years. The convicted person may appeal against the judgement of the higher court to the Supreme Court of Montenegro. A person sentenced to death has the right to use all extraordinary legal remedies in criminal proceedings, namely review of proceedings, extraordinary commutation of punishment, a request for the protection of legality and a request for extraordinary review of the final verdict.

134. The death penalty may not be carried out until it has been established that the convicted person has not been amnestied or pardoned. If the convicted person has not submitted an appeal for pardon, the Minister of Justice of the Republic of Montenegro lodges an appeal ex officio. Capital punishment may not be carried out on a seriously mentally or physically ill person during the illness, nor on a woman who is pregnant or whose child is less than three years old. Immediately before the death penalty is carried out, the convicted person must be told that he has not been amnestied or pardoned, and at the request of the convicted person the execution may be postponed for 48 hours. Before the execution, the convicted person is entitled to a visit by next of kin, defence counsel and a priest of his denomination. The death penalty is carried out by shooting, without the public present.

135. The question of capital punishment is regulated by republican laws on the execution of criminal sanctions and by relevant by-laws.

136. In the reporting period, from 1992 to 1997, 16 sentences of capital punishment were pronounced in the Federal Republic of Yugoslavia, of which 10 were for the crime of murder and six for serious cases of robbery and stealth. None of these 16 sentences has been carried out, and in each case proceedings are continuing on the basis of appeals, extraordinary legal remedies and appeals for pardon. The last execution in the Federal Republic of Yugoslavia was in February 1992 (for murder), but the sentence had been passed long before.

Paragraph 3

137. Yugoslavia ratified the Convention on the Prevention and Punishment of the Crime of Genocide in 1950. Under its Criminal Code (art. 141), the crime of genocide is punishable by five to 20 years' imprisonment.

Paragraph 4

138. The Federal Assembly may grant amnesty for criminal offences laid down by Federal Law (art. 78 of the Constitution of the Federal Republic of Yugoslavia).

139. The National Assembly of the Republic of Serbia may grant amnesty for criminal offences laid down by laws of the Republic of Serbia (art. 73 of the Constitution of the Republic of Serbia), and the Assembly of the Republic of Montenegro may grant amnesty for criminal offences laid down by laws of the Republic of Montenegro (art. 81 of the Constitution of the Republic of Montenegro).

140. The President of the Federal Republic of Yugoslavia may grant a pardon for criminal offences laid down by federal law (art. 96 of the Federal Constitution); the President of the Republic of Serbia may grant a pardon for criminal offences laid down by laws of the Republic of Serbia (art. 86 of the Constitution of Serbia); and the President of the Republic of Montenegro may grant a pardon for criminal offences laid down by laws of the Republic of Montenegro (art. 88 of the Constitution of Montenegro).

Paragraphs 5 and 6

141. Under article 2 (a) of the Criminal Code of the Republic of Serbia, capital punishment may not be pronounced on a person who was under 21 years of age at the time of the commission of the criminal offence or on a pregnant woman. Under article 3 (a) of the Criminal Code of the Republic of Montenegro, capital punishment may not be pronounced on a person who was under 18 years of age at the time of commission of the criminal offence or on a pregnant woman.

Article 7

Prohibition of torture and degrading punishment and treatment

142. Article 25 of the Constitution of the Federal Republic of Yugoslavia reads:

> "Respect for the human personality and human dignity shall be guaranteed in criminal and any other proceedings in the case of deprivation or restriction of liberty and during the enforcement of a penalty.
>
> "Any violence against a person deprived of liberty or whose liberty has been restricted, as well as any extortion of a confession or statement, shall be forbidden and punishable.

"No one may be subjected to torture, or to degrading punishment or treatment.

"Medical and other experiments on an individual without his permission shall be forbidden."

143. The constitutions of the republics also contain the appropriate wording. Protection against torture, i.e. degrading punishment, has been governed by the criminal legislation of Yugoslavia in terms not only of substantive law, but also of procedural law. Although the term "torture" does not exist in the constitutional texts, nor in Yugoslav criminal legislation, protection against torture, i.e. degrading punishment or treatment, is governed by a considerable number of legal provisions, which describe and sanction the acts covered by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Yugoslavia in 1991.

144. The Criminal Code of Yugoslavia (1976) provides for 24 criminal offences against rights and freedoms of man and the citizen that are sanctioned as torture, i.e. degrading punishment or treatment (arts. 174-199), for example abuse of office (art. 174), dereliction of duty (art. 182), unlawful deprivation of freedom (art. 189), extortion of depositions (art. 190), abuse in the line of duty (art. 191), infringement of the inviolability of dwellings (art. 192), unlawful search (art. 193), etc.

145. Chapter 8 of the Criminal Code of the Republic of Serbia, entitled "Criminal Offences against Rights and Freedoms of Man and the Citizen", contains 18 criminal offences (arts. 60-76). The Criminal Code of the Republic of Montenegro contains 17 criminal offences against rights and freedoms of man and the citizen, in wording similar to that used in the Criminal Code of Yugoslavia and the Serbian criminal code.

146. Although the same or similar wording is used for the offences in question in all three criminal codes, it is stressed that the provisions of the Criminal Code of Yugoslavia refer to public officials in federal bodies, while the corresponding provisions of the republican criminal codes apply to all other public officials.

147. The Law on Criminal Procedure contains the following general provision (art. 10): "Any extortion of a confession or statement from an accused person or any other person involved in the proceedings shall be forbidden and punishable."

Court and police procedures

148. The figures below summarize the operation of courts and other competent bodies in the Federal Republic of Yugoslavia in the period 1992-1997 for three of the offences in question:

Offence	Charges	Indictments	Sentences
Unlawful arrest	492	177	109
Extortion of statement	199	69	25
Abuse in the line of duty	1 548	479	238

149. The police in the Federal Republic of Yugoslavia act on the basis of laws and by-laws which, inter alia, establish conditions for the use of coercion and other powers in the line of duty. These regulations also include provisions which sanction all measures and acts contrary to the provisions of the Covenant. If a police officer acts contrary to the regulations, disciplinary and other measures are taken, including termination of employment, but criminal charges may also be brought.

150. Thus, for example, by reviewing the long practice of the Ministry of the Interior of the Republic of Serbia, it has been established that officers of the Serbian police have not committed a single act of torture, i.e. an act involving elements of torture; there have been only individual cases of overstepping of powers, and in such cases appropriate legal and sublegal measures were undertaken against the officers in question, who were suspended from the Ministry and dismissed.

151. In the period 1992-1997, the Ministry of the Interior of the Republic of Serbia brought a total of 16 criminal charges against 20 authorized officers, based on reasonable suspicion that they had committed 11 offences of abuse in the line of duty, three offences of unlawful arrest, two offences of rape or indecent assault by abusing their official position, and two offences of extortion of a statement. Of this number, three criminal charges were brought in 1992 against five police officers, three in 1993 against four officers, four in 1994 against four officers, one in 1995 against one officer, two in 1996 against two officers and three in 1997 against four officers. Criminal charges were also brought against 11 uniformed officers and three criminal inspectors.

152. Most cases involved irregular use or overstepping of powers relating to the use of coercion - i.e. physical force or rubber baton. In seven cases, coercion was used in official premises during interviews about the commission of certain criminal offences. On these occasions, three persons died and three sustained serious bodily injuries. Of the total number of reported offenders, 12 were convicted in criminal proceedings. All these authorized officers of the Ministry of the Interior who were found guilty were sentenced to imprisonment, ranging from 80 days to 6 years.

153. In addition to criminal charges, disciplinary proceedings were undertaken against 17 reported officers. In three cases, employment was terminated, three officers were fined, five were relocated to other jobs, one was released from disciplinary responsibility, and proceedings against one other were terminated. All officers who were subjected to disciplinary proceedings were suspended from the Ministry until their case was settled. Three officers terminated employment by agreement.

154. In addition to the legal measures taken ex officio by the Ministry of the Interior of the Republic of Serbia, the injured parties brought criminal charges directly to the competent public prosecutors' offices. According to the number of requests for collection of necessary information submitted to the Ministry of the Interior by the competent public prosecutors' offices, citizens brought about 600 criminal charges against 917 authorized officers of the Ministry in the period 1992-1997, in most cases for abuse in the line of duty (618), extortion of statements (67) and unlawful deprivation of freedom (27), and including two allegations of abuse of office to have sexual intercourse or

commit indecent assault. The majority of these cases were based on unfounded reports and complaints of citizens under criminal prosecution. The competent public prosecutors' offices were duly informed about the proceedings undertaken and in most cases rejected the charges as unfounded.

155. Apart from being constantly reminded of constitutional and legal provisions regarding the prohibition of any form of torture or ill-treatment, i.e. degrading punishment or treatment, law enforcement officers are regularly monitored and their conduct analysed. Officers of the Ministry of the Interior of the Republic of Serbia are trained in and informed about the prohibition of torture, i.e. treatment involving elements of torture, in two ways: through professional education, training and advanced training; and through everyday activities and regular work. During their education in the secondary and post-secondary schools of internal affairs and at the Police Academy, in seminars and in courses, particular attention is paid to professional training in proper and legal conduct, especially during the use of coercion and certain other powers. Furthermore, all officers in the Ministry undergo additional training every year in proper and legal treatment and use of powers within the framework of their compulsory professional education. On completion of disciplinary or criminal proceedings, officers of the Ministry are informed about all abuses committed in the line of duty, the aim being to prevent and contain such practices. Moreover, when assigning officers, superior officers give special instructions every day.

Treatment of detainees

156. In the Republic of Serbia, the treatment of detainees is fully consistent with the concept of re-education, which implies humane conditions of accommodation, nutrition, health care and legal protection. All norms of the United Nations Standard Minimum Rules for the Treatment of Prisoners and the European Rules for Prisons are incorporated in the Law on the Execution of Criminal Sanctions.

157. Analysis of the Law on the Execution of Criminal Sanctions points to three principal commitments. First, it guarantees to inmates a comprehensive scale of basic facilities the acquisition of which depends on the level of correction achieved (good behaviour and commitment to hard work). Secondly, the Law protects the rights of inmates, providing for the right to complain to the warden or head of administration regarding the execution of prison sanctions and the right to receive a reply; the right to appeal against the disciplinary measure of solitary confinement; and the possibility of terminating the employment of prison staff who violate the rights of inmates. Thirdly, the Law provides for men of full age sentenced to a year or more in prison to be sent for a maximum of 60 days to prisons of a new kind, where their personalities are studied from the psychological, pedagogical, social and security points of view in order to classify them and determine the required corrective programmes. Only then can convicts be sent to appropriate prisons.

158. The Law on the Execution of Criminal Sanctions stipulates that an inmate may be punished only after being given an opportunity to defend himself and after his statement has been heard. Before the pronouncement of the most severe punishment, solitary confinement, the warden is obliged to obtain written confirmation from a doctor that the inmate is capable of enduring such

confinement. The warden decides on disciplinary punishments. Solitary confinement may last up to 15 days or, if an inmate is punished for several breaches of discipline at a time, up to 30 days. Solitary confinement may be conditionally postponed by six months. An inmate has the right to lodge an appeal against a decision regarding disciplinary punishment, which is considered by the central authorities. The solitary confinement of an inmate who was not given an opportunity to defend himself, whose statement was not heard or for whom a medical opinion stating that he could endure such confinement was not obtained, and the failure to consider an appeal against solitary confinement in a timely fashion, would result in termination of employment for the person responsible. An inmate may not be placed in solitary confinement for more than six months in total in any one year. The warden is obliged, under penalty of being dismissed, to release an inmate from solitary confinement if a doctor gives written notice that further such confinement would constitute a hazard to the inmate's health.

159. There are no restrictions on communication between inmates because the inherited cell system has never been implemented in the Federal Republic of Yugoslavia, and hence wardens cannot commit any kind of abuse. Visits are an inmate's right and no one can limit the statutory number: one visit a month for those under closed treatment, two visits a month for those under semi-open treatment and one visit a week for those under open treatment.

160. In accordance with the Law on the Execution of Criminal Sanctions of the Republic of Serbia, an inmate has unlimited rights to correspondence, the right to unrestricted visits by his defence counsel, the right to spend at least three hours per week with his spouse and children in a special room in the prison, the right to receive parcels, the right to unlimited receipt of money orders, the right to practise his religion and the right to be visited by a clergyman of his denomination.

161. Supervision of the Institute for the Execution of Criminal Sanctions is performed by the Administration for the Execution of Criminal Sanctions, which is part of the Ministry of Justice of the Republic of Serbia, and by the presidents of district courts. Written petitions and appeals by inmates and detainees have been established as a right which they cannot be denied, and are thus a part of the mechanism for preventing the abuse of powers. The supervision is periodic, carried out through meetings with inmates and detainees without staff of the Institute present.

162. Health care for inmates and detainees is organized in line with general health regulations, so that all major institutions for the execution of criminal sanctions in the Republic of Serbia have their own health-care services and clinics, and small-scale institutions have part-time doctors who receive patients twice a week and according to needs. All inmates and detainees have mandatory medical examinations when admitted to prison and each has his medical records filed. An examination is also compulsory prior to release. The Law on the Execution of Criminal Sanctions of the Republic of Serbia established a special psychiatric institute for the treatment of persons who commit a criminal offence in a state of mental disorder or significantly diminished accountability or under the influence of alcohol or drugs. Inmates who fall seriously ill during their imprisonment are treated in a newly established prison hospital.

163. In the Republic of Montenegro, convicts (persons found guilty of having committed a criminal offence by a final court ruling and sentenced to imprisonment), when admitted to a prison, go through the Psychosocial Diagnostic Department, where various criminological, medical, psychological, sociological and other personality tests are carried out in order to classify them and draft a programme for their re-education.

164. During their term in prison, inmates are treated in a manner which secures respect for their personality and dignity as well as the maintenance of their physical and mental health.

165. The means of coercion used are physical force, binding, physical separation, rubber baton, water hose, specially trained dogs, chemical agents and firearms.

166. Training of guards and testing of their knowledge are carried out through lectures and examinations conducted before a multidisciplinary panel made up of lawyers, economists and psychologists appointed by the Minister of Justice.

167. For serious breaches of rules regarding the organization of work and the daily schedules of inmates, an inmate may be punished by solitary confinement for up to 30 days following the performance of his duty, or solitary confinement for up to 30 days.

168. These are the most severe disciplinary punishments, minor punishments being reprimand and withdrawal of permission to receive parcels for up to three months.

169. Disciplinary punishment is decided by the warden of a prison on completion of a procedure for establishing the facts, which necessarily includes the convicted person making a statement.

170. An inmate has the right to appeal within three days against a decision to impose disciplinary punishment, directly to the senior official - the Director of the Institute for the Execution of Criminal Sanctions.

171. The disciplinary punishment of solitary confinement means that an inmate is kept in a specific room for an uninterrupted period, except for at least a one-hour walk per day in the open, without being denied any of the other rights enjoyed by convicts. During his time in solitary confinement, he is visited by an educator and a doctor at least once a day.

172. Solitary confinement may not be imposed if it would constitute a hazard to the to the health of an inmate, a question which a doctor must decide; if such a risk is determined, the punishment is terminated.

173. In conformity with the regulations of the Republic of Montenegro, inmates are allowed visits by their next of kin twice a month for those serving short sentences (up to six months) - as well as before their release - and once a week for other inmates. Persons designated by an inmate as being closest to him are also allowed to visit him, not only members of his family. In addition, an inmate has the right to a visit by his or her spouse, as well as by a priest of his or her denomination.

174. An inmate can be rewarded for good conduct and hard work by the extension of visiting rights, namely by being allowed additional visits, visits without supervision and visits outside the premises.

175. As for restriction on communication between inmates and abuse by wardens, no data are available. However, it is obvious that an inmate is allowed to receive a larger number of visits in order to improve his communication with the outside world, primarily his family.

176. The protection of detainees against abuse is secured through supervision by the president of the higher court, and the protection of inmates against abuse through supervision by the Ministry of Justice of the Republic of Montenegro, performed by its authorized official. Inmates have the right to lodge a written complaint with the Director of the Institute for the Execution of Criminal Sanctions and with the Ministry. These complaints are answered after establishment of the facts and evaluation of the regularity of the treatment in question.

177. An inmate has the right to speak in private, without guards present, with an authorized official of the Ministry of Justice of the Republic of Montenegro to present his problems. Convicts very often use this right in practice.

178. There is no physical punishment in Yugoslav educational institutions.

179. The system-related laws on education (the Law on Primary Schools of the Republic of Serbia and the Law on Secondary Schools of the Republic of Serbia) lay down that a pupil may be held accountable for the violation of duties, and that any material damage he inflicts shall be paid for by his parents. Educational and disciplinary measures that may be imposed are: an admonition, a class master's reprimand, a class council reprimand, a headmaster's reprimand or a serious reprimand by the teachers' council.

Article 8

Paragraphs 1 and 2

The Prohibition of slavery

180. Yugoslavia ratified the Slavery Convention and incorporated in article 155 the following definition of the criminal offence of slavery:

> "Whoever violates the rules of international law by reducing another person to slavery or any other analogous status, or keeps him/her in such a status, or buys, sells or exchanges him/her or acts as a mediator in such trade or exchange of that person, or induces another person to sell his/her freedom or the freedom of his/her dependants or persons in his/her custody shall be punished by imprisonment for one to ten years.
>
> "Whoever transports persons of servile status or any other analogous status from one country to another shall be punished by imprisonment for six months to five years.

"Whoever commits an act referred to in paragraphs 1 and 2 of this article on a minor shall be punished by imprisonment for at least five years."

181. It should be pointed out that the criminal offence in question is supplemented by the existing article 3, in order strongly to combat trade in children.

182. The practices criminalized under article 155 are not only slavery, but also debt bondage, serfdom, the selling of a female by her family, and the selling or giving away without reward of a minor by his parents or guardians for the purpose of his exploitation, as well as other institutions and practices analogous to slavery as laid down in article 1 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 (ratified by Yugoslavia in 1958).

Paragraph 3

Forced labour

183. Forced labour is prohibited under article 54, paragraph 3, of the Constitution of the Federal Republic of Yugoslavia, article 35 of the Constitution of the Republic of Serbia and article 52 of the Constitution of the Republic of Montenegro. ILO Convention No. 29 (Forced Labour Convention, 1930) is implemented in an appropriate manner and there have been no objections from the competent ILO bodies, in particular the Committee of Experts on the Application of Conventions and Recommendations and the Conference Committee on the Application of Conventions and Recommendations.

184. Forced labour is not imposed as a criminal sanction in the Federal Republic of Yugoslavia. Convicts are assigned tasks, during their time in prison, within the possibilities of the institution, commensurate with their physical and intellectual abilities. Persons on parole are completely free to choose their trade and job.

Military service

185. The Law on the Yugoslav Army lays down the obligation of all eligible Yugoslav nationals to perform military service and stipulates that such service shall last 12 months. However, in the case of a conscript who, for religious or other conscientious objections, refuses to perform military service under arms or prefers to serve in a civilian institution, military service shall last 24 months. Military service in civilian institutions is organized in institutions of military economy and health-care institutions, organizations for the rehabilitation of disabled persons, and other organizations and institutions pursuing activities of general interest. A soldier who is performing his military service in a civilian institution is equal in rights and duties to a soldier performing his military service in the Yugoslav Army. A conscript who does not wish to perform his military service under arms must submit a written request to the competent military body in charge of his territorial unit within 15 days from the date of the receipt of call-up papers, in which he must state the reasons for his refusal to perform military service under arms and his preferences with regard to alternative jobs in the army or in a civilian

institution. The competent conscription commission must decide on such a request within 60 days. Since the Yugoslav Constitution and the Law on the Yugoslav Army, within the framework of the Yugoslav legal system, provide for military service without arms or in civilian service for religious or other conscientious objectors, all such requests are accommodated. In practice, the number of conscripts who opt for this solution - mainly members of various religious sects - is insignificant.

Article 9

Paragraphs 1 to 3

Deprivation of liberty and detention

186. Article 23 of the Constitution of the Federal Republic of Yugoslavia reads:

> "Everyone shall have the right to personal freedom. No one may be deprived of liberty except in cases and by the procedure specified by federal statute.
>
> "Any person who has been deprived of liberty shall be immediately informed in his/her own language or a language he/she understands of the reasons therefor and shall have the right to demand the authorities to inform his/her next of kin of such deprivation of liberty.
>
> "At the same time, a person deprived of liberty must be informed that he/she is under no obligation to make any statements.
>
> "A person deprived of liberty shall have the right to a defence counsel of his/her choosing.
>
> "Any unlawful deprivation of liberty shall be punishable."

187. Article 24 of the Constitution reads:

> "A person regarding whom there are grounds for suspicion that he has committed a criminal offence may be detained and held in detention on the basis of a decision of the competent court of law, providing it is indispensable for the conduct of criminal proceedings."

188. A written order with a statement of grounds must be served on a person detained at the moment of detention or not later than 24 hours thereafter. The person detained may lodge an appeal against the order, which must be decided on by the court within 48 hours.

189. The duration of detention must be limited to the shortest necessary period of time. Detention ordered by a first-instance court may last not more than three months. A court of higher instance may extend this period for another three months. If on the expiry of these time limits no indictment has been filed, the accused must be released.

190. The Law on Criminal Procedure contains provisions referring to detention (arts. 190-200). Articles 190 and 191 set out the basic prerequisites and conditions for ordering detention (detention may be ordered only in keeping with the conditions precisely defined in this Law). Articles 192, 194, 195 and 196 specify which bodies are competent to order detention (as a rule, detention is ordered by the investigating judge in charge and law enforcement bodies, and it may last up to 72 hours under judicial supervision). According to the draft law on criminal procedure now under preparation, bodies responsible for internal affairs (police) may not order detention. Articles 193 and 200 of the Law on Criminal Procedure regulate the rights of persons deprived of liberty (the right to a defence counsel and to assistance in retaining defence counsel; detention for the shortest time possible; informing of family). Articles 198 and 199 regulate the expiry of detention (approval of the investigating judge and the public prosecutor; in the absence of such approval, the decision revoking the detention order is made by the trial chamber). Article 197 regulates the duration of detention (one month on the basis of a judge's order, which may be extended for another two months on the basis of a decision of the trial chamber; however, if the proceedings are being conducted for a criminal offence punishable by a sentence of five years' imprisonment or a more severe sentence, detention may be extended for a further three months on the basis of a decision of the chamber of a republic Supreme Court).

191. In practice, detention is not ordered frequently. For example, in the six-year period from 1992 to 1997, persons accused of having committed any of the 59 criminal offences in the group of criminal offences against the rights and freedoms of man and the citizen (24 offences in the Criminal Code of Yugoslavia, 18 offences in the Criminal Code of Serbia and 17 offences in the Criminal Code of Montenegro), were ordered to be detained in a total of 274 cases on the basis of criminal charges. The persons in question were detained, as a rule, for between 3 and 30 days, with detention exceeding 30 days only in individual cases.

192. Unlawful deprivation of liberty is punishable. For example, the Criminal Code of the Republic of Montenegro (art. 45) stipulates that a person who unlawfully detains, keeps in detention or in any other way restricts the freedom of movement of another person shall be punished by imprisonment for up to one year. If the unlawful deprivation of liberty is committed through an abuse of office or powers, the perpetrator shall be punished by imprisonment for between three months and five years. This article also provides for two particular cases. If the unlawful deprivation of liberty exceeds 30 days or is carried out in a cruel manner, or if it seriously impairs the health of the person concerned or entails other serious consequences, the perpetrator shall be punished by imprisonment for between one and eight years. If the person unlawfully deprived of liberty loses his life as a result, the perpetrator shall be punished by imprisonment for between one and 12 years.

193. The Criminal Code of the Republic of Serbia (art. 64) provides for the same criminal offence and the same punishments, except that, in the case of the death of the person unlawfully deprived of liberty, the prescribed punishment is three to 15 years' imprisonment.

Investigative actions

194. The Law on Criminal Procedure contains various provisions on investigative actions (arts. 206-260).

195. Searches of homes and persons (arts. 206-210) are carried out on the following conditions: if it is probable that evidence of a criminal offence will be found; on the basis of a written court order with an explanatory note; with an invitation to the owner or occupiers or neighbours to be present; if the search is carried out in the presence of two adult citizens as witnesses; and provided the search is conducted with care. The police may search a home without a warrant if someone calls for help or if it is necessary to apprehend the perpetrator in flagrante delicto or to protect people or property. They may search a person without a warrant in the case of a detention or an arrest, if the person is suspected of possessing arms or offensive weapons, or if it is suspected that he will hide or destroy an object which may be used as evidence in criminal proceedings. After every search without a warrant, the police must submit a special report.

196. The temporary take-away of a case is dealt with in articles 211 to 215, and the procedure with regard to suspicious objects in articles 216 and 217.

197. During the interrogation of a suspect (arts. 218-224), his personality must be fully respected and no force, threats or other such means, or false statements may be used against him in order to elicit a statement or confession.

198. When invited to come forward as a witness, a person is obliged to do so; persons excused from the duty to testify will be indicated; a witness has the right not to respond to particular questions; and must be duly invited and correctly interrogated (arts. 225-237).

199. The investigation of an incident (arts. 238-240) must be conducted in a manner which will not violate public order or morality or endanger human life or health.

200. The question of expert witnesses is dealt with in articles 241 to 260.

Bail

201. The Law on Criminal Procedure also contains provisions regarding bail (arts. 186-189). Bail is always set at an amount determined in accordance with the gravity of the offence, the personal and family background of the defendant and the material status of the person standing bail.

Paragraph 4

The right to appeal and defence

202. Article 26, paragraph 2, of the Constitution of the Federal Republic of Yugoslavia guarantees to everyone the right of appeal or resort to other legal remedies against a decision which infringes a right or legally founded interest.

203. An appeal may be lodged with the competent body against decisions pronounced in first-instance proceedings and other acts of judicial, administrative and other State bodies, as well as against the acts of bodies and organizations performing public functions (art. 119, para. 1 of the Constitution).

204. A detained person is entitled to choose his own defence counsel (art. 23, para. 5, of the Constitution).

205. Every person is guaranteed the right to defend himself and the right to engage a defence counsel before a court or other body authorized to conduct proceedings (art. 29, para. 1, of the Constitution).

206. Parties and persons whose rights have been violated may appeal against a decision of an investigating court in first-instance proceedings (art. 394 of the Law on Criminal Procedure). The appeal must be filed within three days of the date of communication of the decision and its submission postpones the execution of the decision (arts. 395-396 of the Law on Criminal Procedure).

Paragraph 5

207. Compensation for damage is regulated by the provisions of the Federal Constitution and the Law on Criminal Procedure referred to earlier (see paras. 108-112 above). Such compensation may be claimed by anyone against whom an unjustified verdict has been pronounced, which may be a sentence, a security or disciplinary measure, or a decision declaring a person guilty if he is subsequently acquitted. Compensation is envisaged for any damage, both property and non-property damage.

Article 10

Paragraph 1

208. Respect for the human personality and dignity in criminal and all other proceedings involving arrest or restriction of freedom, as well as during the serving of a sentence, is guaranteed by the Constitution of the Federal Republic of Yugoslavia (art. 25, para. 1).

209. The Law on Criminal Procedure contains provisions on procedure with regard to detainees (arts. 201-205). Article 201, paragraph 1, states that "during detention the personality and dignity of the defendant must not be offended". Article 202 stipulates an uninterrupted eight-hour rest period every 24 hours and the detainee's right to obtain food at his own expense, wear his own clothes, use his own linen and procure papers and books. Article 203 makes it possible for detainees to receive visitors - family members, doctors and others - as well as to exchange correspondence under the supervision of the body or person in charge of the investigation. Article 204 provides for disciplinary penalties to be imposed on detainees for disciplinary offences, and article 205 regulates the method whereby the President of the court supervises detainees.

Paragraph 2

210. In prisons, defendants and convicted persons are always physically separated, in accordance with the regulations, so that no contact is possible between them. The difference in treatment is very important. In order to protect the investigation, neither communication between accomplices nor communication with detainees in other cells is permitted.

211. Another difference in treatment is that defendants are entitled to more visits than convicted persons. Defendants may eat their own food an use their own clothing, footwear and linen. Defendants are not required to work but have the right to work if they so wish. Convicted persons are obliged to work and special facilities for this exists.

212. When entering a prison, a convict is familiarized in writing with the rules and the duties he will have during his sentence and, if he is illiterate, he is given this information verbally. The text of the republican Law on the Execution of Criminal Sanctions and the house rules of the prison are available to him during his stay in prison.

213. As a rule, all detainees are placed in group cells unless the investigating judge requests in writing that a detainee be put in a separate cell for a specified time. Detainees are grouped according to their personal characteristics, rather than according to social, ethno-cultural or other considerations.

214. The treatment of minors is completely different from that of adults and is adjusted to their age, particularly with regard to nutrition, accommodation, education, sports and culture.

Paragraph 3

215. The treatment of minors who have committed a penal offence is regulated by the Law on Criminal Procedure (arts. 452-493) and differs from the treatment of adults.

216. Criminal procedure in relation to adolescents is characterized by the principles of appropriateness and discretion (excluding the general public), a use of a special court chamber made up of experts on young people, and cooperation with social services and the family.

217. Any proceedings initiated against a minor who was under 14 years of age at the time he committed the penal offence are suspended. A minor cannot be tried in absentia. A minor may be defended only by an attorney. Minors serving time in prison are as a rule separated from adults. When a minor is tried, it is always done behind closed doors. The court chamber for minors may pronounce a sentence or a corrective measure. It may also decide to pass on the case to the competent court or to suspend the proceedings. An appeal may be filed within eight days against a decision sentencing a minor or against a decision regarding disciplinary action or suspension of proceedings. Moreover, an extraordinary legal remedy may be resorted to - a demand for the protection of legality.

218. The Federal Republic of Yugoslavia ratified the Convention on the Rights of the Child in 1990 and, in 1996, withdrew its reservation concerning article 9, paragraph 1, of the Convention. The reservation was withdrawn in order to strengthen the role and importance of the courts in disputes in which a child's interests have been violated, to pave the way for the establishment of special family courts and to define the rights of the child as a legal entity.

Article 11

219. The criminal legislation of the Federal Republic of Yugoslavia does not envisage any penalty (imprisonment) for inability to fulfil a contractual obligation. Failure to fulfil a contractual obligation or delayed fulfilment gives the creditor the right to demand compensation for damage suffered as a result and makes it mandatory for the debtor to compensate for the damage. With respect to the conclusion of contracts, compensation for damage and responsibility for compensation for damage, the rules of debt law are applied, in particular the provisions of the Law on Debt Relations.

Article 12

Paragraph 1

Freedom of movement and residence

220. Article 30 of the Constitution of the Federal Republic of Yugoslavia reads:

> "Citizens shall be guaranteed freedom of movement and residence and the right to leave and return to the Federal Republic of Yugoslavia.
>
> "The freedom of movement and residence and the right to leave the Federal Republic of Yugoslavia may be restricted by federal statute, if so required for criminal proceedings, to prevent the spread of contagious diseases or for the defence of the Federal Republic of Yugoslavia."

Domicile and residence

221. Domicile is the place where a citizen has settled with the intention to live permanently. Adult citizens are obliged to report their domicile and any change thereof, as well as a change of address. When they report their domicile or change of address, adult citizens are obliged to report details of their children who are minors in accordance with the republican laws on domicile and residence. Domicile and change of address are to be reported within eight days from the day of establishment or change of address. A citizen is obliged to cancel his domicile prior to leaving that domicile.

222. Residence is the place where a citizen lives on a temporary basis outside his domicile. Citizens who are staying outside their domicile for a period of more than 15 days are obliged to report their residence and to cancel it prior to their departure.

223. Citizens who intend to stay abroad for more than 60 days are obliged to report that fact prior to departure. These citizens are obliged to report their temporary arrival or return to the country not later than three days from their departure or return to their domicile.

224. Reports and cancellations of domicile and reports of a change of address, as well as reports of a departure for a foreign country and temporary arrival or return from a foreign country to the place of domicile, must be submitted to the municipal authority of the Ministry of the Interior or, in places outside the seat of the municipality, to the local office, which will communicate them to the municipal authority without delay.

225. Records on domicile, change of address and residence of citizens, as well as records on citizens' visits abroad for longer than 60 days, are kept by the municipal authority of the Ministry of the Interior.

Paragraphs 2 and 3

Passports

226. The issuance of passports is regulated by the Law on Travel Documents of Yugoslav Citizens (1996). To obtain a passport, a person must present a valid identity card, a certificate of citizenship, two photographs, proof of payment of a fee prescribed by law and proof of payment for the passport booklet. Any military conscript must, in addition, present proof that he has performed his military service.

227. Rejection of an application for a passport and the revoking of a passport are provided for by article 46 of the Law on Travel Documents of Yugoslav Citizens.

228. In the case of rejection of an application, the applicant has the right to appeal within 15 days of receipt of the relevant decision. The appeal is decided on by the federal Ministry of the Interior. If the applicant is dissatisfied with the decision of the second-instance procedure, he may initiate administrative proceedings with the federal court within 30 days of receipt of the decision.

229. During the period 1992-1997, a total of 2,658,845 passports were issued in the Republic of Serbia; 8,312 applications were rejected. The reasons for rejection were in conformity with article 46 of the Law on Travel Documents of Yugoslav Citizens (competent courts requested that a passport not be issued to persons subject to criminal proceedings or to applicants who had been sentenced to more than 3 months' imprisonment but had not yet served their sentence; competent government agencies requested that a passport not be issued to applicants intending to avoid alimony obligations or the payment of taxes or customs duties; and competent military authorities requested rejection in the case of applicants intending to avoid compulsory military service).

230. During the same period, the district organizational units of the Ministry of the Interior of the Republic of Montenegro issued or extended the validity of 171,200 passports. In 205 cases, applications were rejected or decisions taken to revoke passports.

Reception of foreigners

231. The presence and movement of foreigners in the territory of the Federal Republic of Yugoslavia is regulated by the Law on the Movement and Stay of Foreigners (1980).

232. A foreigner may come to the Federal Republic of Yugoslavia and stay in its territory if he holds a valid foreign passport and a Yugoslav visa, or a valid foreign travel document issued by the competent Yugoslav federal authority and a Yugoslav visa.

233. A foreigner who comes to the Federal Republic of Yugoslavia with a foreign passport may, during the validity of his visa, stay temporarily in Yugoslavia for up to three months or, if he is in transit through Yugoslav territory, for up to seven days from the date of crossing the border.

234. A foreigner may, at his request, be allowed a temporary stay of more than three months for the purposes of education, specialization, research work, employment or the pursuit of certain professional activities.

235. A temporary residence permit may be issued for a period of up to one year if justified reasons for it exist. A foreigner's temporary residence permit may be extended several times, for a period of one year at a time.

236. A foreigner may be allowed establishment in the Federal Republic of Yugoslavia in the following cases: if any of his close family members (spouse, child, parent) is a Yugoslav citizen or a foreigner granted establishment; if he is married to a Yugoslav citizen; if he is of Yugoslav extraction; or if he has invested funds in Yugoslavia in order to engage in economic or social activities.

237. By way of exception, establishment in the Federal Republic of Yugoslavia may also be granted to other foreigners.

238. The conditions for the reception of foreigners in the Federal Republic of Yugoslavia are set forth in articles 5 and 26 of the Law on the Movement and Stay of Foreigners. A foreigner must hold a valid national passport or an appropriate travel document recognized by Yugoslavia; a visa is obligatory for nationals of the countries for which visas have not been abolished; and a foreigner must have sufficient funds to support himself during his stay or identify a person or entity that will provide them.

239. Foreigners may move freely through the territory of the Federal Republic of Yugoslavia, but this freedom may be restricted in certain areas and establishment may be prohibited in certain towns and villages in order to protect the public order and safeguard the country's defence interests, as well as for reasons stemming from international relations.

240. A foreigner who is persecuted for his advocacy of democratic opinions or movements, social or national emancipation, human rights and freedoms or freedom of scientific research may be granted the right of asylum and privileges stemming from the status of asylum seeker. A foreigner who has left the State of which he is a national or where he had been permanently established as a

stateless person, in order to avoid persecution on account of his progressive political aspirations or his national origin, race or religious affiliation, may be granted the status of refugee in the Federal Republic of Yugoslavia.

Paragraph 4

241. Paragraph 1 of article 30 of the Constitution of the Federal Republic of Yugoslavia (see para. 220 above) unequivocally states that a citizen of the Federal Republic of Yugoslavia is guaranteed the right to leave and to return to the country.

Article 13

Expulsion of foreigners

242. A foreigner against whom an expulsion order or an order to leave the territory of the Federal Republic of Yugoslavia has been pronounced for security reasons, whose residence permit has been revoked or who is in the country without the authorization of the competent agency is obliged to leave Yugoslav territory within the time limit determined by the competent agency (art. 61 of the Law on the Movement and Stay of Foreigners).

243. The Criminal Law of the Federal Republic of Yugoslavia (art. 70) stipulates that a court may expel a foreigner from the Federal Republic of Yugoslavia for a period ranging from one to 10 years or forever. Before pronouncing this measure, the court must take into account the motives for the offence in question and the way in which it was committed, as well as other circumstances which point to the undesirability of the foreigner's further presence in the country.

244. The Law on Offences (art. 49) stipulates that expulsion of a foreigner from the Federal Republic of Yugoslavia may be resorted to as a protective measure following an offence which makes his further presence in the country undesirable. The measure may be pronounced for a period ranging from six months to two years.

245. Under the Law on the Movement and Stay of Foreigners (art. 36) a foreigner may be denied permission to remain in the country if he fails to observe the regulations in force or fails to carry out the decisions of a government agency; if he remains without means of support and has no other source of income; if he engages in vagrancy or begging; or if such a measure is required in order to protect the public order or the country's defence interests.

Procedure for the expulsion of foreigners

246. The procedure for the expulsion of foreigners is regulated by the federal Law on the Movement and Stay of Foreigners and by republican laws on the execution of punitive sanctions. A foreigner who has been ordered to leave the territory of the Federal Republic of Yugoslavia or whose further presence has been disallowed or who has been present in the country without the authorization of the competent authority is obliged to leave within the period determined by the competent authority. If the foreigner fails to leave within the required

period and has a valid passport, he will be escorted to the State border and forcibly made to leave the Federal Republic of Yugoslavia. A foreigner who fails to leave within the required period and who has no valid passport will be escorted to the diplomatic or consular office of the State of which he is a national in order to obtain a passport. Should that office decline to issue a passport, the foreigner will be escorted to the State border and handed over to the competent authority of the neighbouring country if he is one of its nationals, or to the competent authority of another State which agrees to receive him.

247. The agencies of the Ministry of the Interior of the Republic of Serbia expel a foreigner by stamping his passport accordingly and by issuing a written statement to that effect if he so requests. During the period 1992-1997, for legal reasons, the Republic of Serbia disallowed the stay in its territory of 39,502 foreign nationals, and the Republic of Montenegro 519 foreign nationals.

248. Persons who have entered the Federal Republic of Yugoslavia illegally and who have not been granted the status of refugees or asylum seekers are handed over to the a magistrate who, in addition to imposing a fine or a jail sentence, will order their expulsion from the country (art. 106 of the Law on the Movement and Stay of Foreigners).

249. In accordance with the Instructions on the Implementation of the Law on the Movement and Stay of Foreigners, the competent authority of the Ministry of the Interior establishes the facts and, if it assesses that a person has entered the territory of the Federal Republic of Yugoslavia illegally, lodges a complaint with the magistrate unless the person has been granted the status of refugee or asylum seeker.

Article 14

Paragraph 1

The judiciary

250. Authority in the Federal Republic of Yugoslavia is divided between legislative, executive and judicial bodies.

251. Republican laws on courts of law govern the establishment, organization, competences and composition of courts, procedure before the courts, and the methods, conditions and procedure for the election and removal from office of judges and judges-jurors and their rights and obligations in the exercise of the judicial function.

252. Courts are autonomous and independent in their work and adjudicate on the basis of the Federal Constitution, laws and other general enactments. The independence of the judicial function is ensured by the election of judges by Parliament, with an unrestricted mandate, and by the absence of any other control over their work, except for the control exercised by a higher court when adjudicating on legal remedies.

Election of judges

253. The procedure for electing a judge is set out in the republican laws on courts of law. Any citizen of the Federal Republic of Yugoslavia who meets the general conditions for work in a government agency, has graduated from a law faculty, has passed the bar examination and has the required number of years of service may be elected a judge.

254. The function of a judge is permanent. The main criteria for the promotion of judges include quality of work, meaning an increasing number of decisions confirmed by a higher court, as well as quantity of work, i.e. the number of finalized cases.

255. The constitutions of the republics list the reasons for termination of a judge's function. Termination may occur at his own request or if he meets the legal conditions for retirement. A judge cannot be relieved of duty against his will unless he is sentenced for a criminal offence to an unsuspended term of imprisonment of at least six months or for an offence which renders him unworthy of judicial office, unless he performs his duties incompetently and unconscientiously, or unless he permanently loses his ability to perform the judicial function.

Fair trial

256. Fair trial is ensured through the election of judges of particular professional and moral qualities; the conduct of criminal proceedings in strict accordance with the Law on Criminal Procedure; the holding of trials in public, with the exceptions prescribed by law; and provision for the right to resort to legal remedies.

257. Anyone may attend a public trial, including representatives of the press and the electronic media. Trials may be filmed if the President of the Supreme Court of the republic gives consent.

The practice of law

258. Article 29, paragraph 1, of the Constitution of the Federal Republic of Yugoslavia, guaranteeing to everyone the right to engage a defence counsel, was cited earlier (see para. 205 above). Article 68 of the Constitution reads:

> "Citizens and legal persons shall receive legal assistance from attorneys-at-law as an autonomous and independent activity, in accordance with the law."

259. Attorneys are independent in their work and have the right and the duty to undertake action, within the law and their powers, which they believe can be of use to their clients. The independence of the Bar is ensured through the independent provision of legal assistance, the organization of attorneys in the Bar Association as an independent organization and the adoption of enactments governing the work of the Bar Association, the work and conduct of attorneys, admission to the Bar Association and termination of the right to practise as an attorney, as well as matters relating to the attorney-client relationship and other aspects of obtaining legal assistance. Law is practised by attorneys as

individuals in a common office or associated in working communities of members of the Bar. Free legal assistance to defendants who do not have the means to retain an attorney is provided for in procedural laws.

Paragraph 2

260. The presumption of innocence is laid down by article 27, paragraph 3, of the Federal Constitution, which reads:

> "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty under a valid decision of the court."

Paragraph 3

261. Every person is entitled to equal protection of his rights in a legally prescribed procedure (art. 26, para. 1, of the Constitution).

262. The conduct of criminal proceedings, and particularly the use of languages and scripts, are fully regulated by the Law on Criminal Procedure, as explained earlier in this report.

Paragraphs 4 to 6

263. The rules of conduct in criminal proceedings involving minors, the right to appeal and the right to compensation for damage were explained earlier in this report.

Paragraph 7

264. No one may be tried or punished a second time for an offence for which the proceedings against him have been legally suspended or the charges rejected, or for which he has been convicted or acquitted by a court decision (art. 28 of the Constitution).

Article 15

Paragraphs 1 and 2

265. No one may be punished for an act which did not constitute a penal offence under law or by-law at the time it was committed, nor may punishment be imposed which was not envisaged for the offence in question (art. 27, para. 1, of the Federal Constitution).

266. The principle of non-retroactiveness means that the law which was in force at the time of the commission of an offence is applied to the perpetrator. If the law has been amended once or several times since the commission of the offence, it is mandatory to apply the most lenient law.

Article 16

267. Legal persons under commercial law acquire their legal personality upon entry in the court registry.

268. A natural person becomes a subject under the law by birth. A conceived child is considered as already born if that is in its interest.

Article 17

Paragraphs 1 and 2

269. The Constitution of the Federal Republic of Yugoslavia (art. 22) guarantees the inviolability of the physical and psychological integrity of the individual, his privacy and personal rights, and his personal dignity and security. Article 31 of the Constitution guarantees the inviolability of the home, and article 32 the inviolability of the privacy of mail and other means of communication. Deviation from these principles, in the cases allowed by the Constitution, may be prescribed by federal law. Article 33 of the Constitution guarantees the protection of personal data and prohibits the use of personal data for purposes other than those for which they were compiled.

270. Deviation from the principle of the inviolability of the home is, under the Constitution, possible only on the basis of a decision of the competent court. The Law on Criminal Procedure (arts. 206-210) stipulates that an authorized official may undertake a search of a home or a person only if it is probable that evidence of a criminal offence will be found and on the basis of a written court order with an explanatory note, and provided the owner, occupiers or neighbours are invited to be present. The search must be attended by two adult citizens as witnesses. The police may search a home without a warrant if someone calls for help or if it is necessary to apprehend the perpetrator of a criminal offence in flagrante delicto or to protect people or property. They may search a person without a warrant if he is arrested, if he is suspected of having a weapon, or if it is possible that he may hide or destroy an object which may be used as evidence in criminal proceedings. After every search without a warrant, the police must submit a report.

271. Under the Constitution (art. 32), only federal law may stipulate that, on the basis of a court decision, the principle of inviolability of the privacy of mail and other means of communication may be departed from if necessary for the purpose of criminal proceedings or for the defence of the Federal Republic of Yugoslavia. In other cases, such deviations are not allowed. This provision has been incorporated in the Law on Criminal Procedure (art. 214).

272. The Criminal Law of the Federal Republic of Yugoslavia includes several offences which are sanctioned for violation of these rights of citizens, for example abuse of office (art. 174); unconscientious work (art. 182); violation of the inviolability of the home (art. 192); illegal search (art. 193); violation of the privacy of mail and other means of communication (art. 194); unauthorized telephone tapping and recording (art. 195); and unauthorized photographing (art. 195 (a)).

Article 18

Paragraph 1

273. The Constitution of the Federal Republic of Yugoslavia guarantees the freedom of confession, which encompasses the freedom of belief, the freedom to confess one's faith and the freedom to perform religious rites. The freedom of confession also includes the right to remain an adherent of one's faith (acquired by birth) or to embrace a religion or belief of one's choice.

274. Article 18 of the Constitution stipulates that the church and the State are separate and that churches are free and equal in conducting religious affairs and in the performance of religious rites. The State guarantees the freedom of religion, public or private profession of faith and the performance of religious rites (art. 43 of the Constitution). Abuse of religion is prohibited by article 50 of the Constitution, which declares any incitement of national, racial, religious or other hatred and intolerance unconstitutional and punishable.

275. The above constitutional provisions clearly demonstrate consistent application by the Federal Republic of Yugoslavia of the democratic principles of separation of religious communities from the State and of the full equality of these communities and their freedom of religious affairs and religious rites. The constitutional and legal provisions and the equality established in practice have enabled 50 registered religious communities to be active in Yugoslavia. The Serbian Orthodox Church has the largest number of believers.

276. All religious communities perform their religious rites and establish their internal organization fully, independently and freely. Religious communities may freely acquire movable and immovable property and have the right freely to use it, without restriction. Religious communities organize their schooling systems according to their own needs, and the curricula and programmes are established and educators appointed by the competent church authorities. Relationships with the diaspora and head church abroad may be established freely and without restriction.

Paragraph 2

277. The legal system of the Federal Republic of Yugoslavia guarantees the freedom of confession, thought and conscience and the public expression of opinion, as well as the freedom to confess one's faith and express one's opinion, either individually or together with other people, in public or in private, in religious rites and rituals and in religious teaching.

278. Republican criminal law, which explicitly protects religious rites (art. 240 of the Criminal Law of the Republic of Serbia; art. 213 of the Criminal Law of the Republic of Montenegro), establishes a fine or up to one year's imprisonment for any person who disturbs or prevents the performance of religious rites.

Paragraph 3

279. Freedom of confession, as well as the freedom of belief, the freedom to confess one's faith and the freedom to perform religious rites, may be restricted only for the purposes of protecting public order, public security, health or morality or the fundamental rights and freedoms of others.

Paragraph 4

280. The Federal Republic of Yugoslavia has allowed all religious communities freely and fully to perform the religious teaching of children of their members and other interested persons. Such teaching is performed in the church and in other suitable premises. Textbooks and lecturers are provided by religious communities in accordance with their own criteria. Valid regulations, however, do not envisage the possibility of organized religious teaching in public schools, but an examination is under way of all aspects of the possible introduction of religious teaching in schools for children who show such an interest.

Article 19

Paragraph 1

281. In this regard, reference is made to article 35 of the Constitution of the Federal Republic of Yugoslavia, which reads:

> "Freedom of confession, conscience, thought and public expression of opinion shall be guaranteed."

Article 36, paragraph 1, of the Constitution guarantees freedom of the press and other forms of public information.

Paragraphs 2 and 3

282. In accordance with the federal Law on Communications Systems, the federal Ministry of Telecommunications is responsible for issuing licences for radio stations (for the needs of all services in compliance with valid international and national standards, including electronic media). When issuing licences, the Ministry ensures that the applicant has complied with all legal and technical conditions but is not responsible for monitoring the programme content of electronic mass media.

283. Citizens of the Federal Republic of Yugoslavia have the right to express and publish their opinions in the mass media (art. 36, para. 2, of the Constitution). The publication of newspapers and the public dissemination of information by other media are accessible to all, without prior approval, after registration with the competent authorities (art. 36, para. 3, of the Constitution).

284. The right to have corrected published false information which violates a person's rights or interests, and the entitlement to compensation for damage

arising therefrom, as well as the right of reply in the public media, are also guaranteed by the Constitution (art. 37).

285. Censorship of the press and of other forms of public information and prevention of the distribution of the press or of dissemination of other publications are prohibited, unless it has been determined by a court decision that they call for the violent overthrow of the constitutional order or for violation of the territorial integrity of the Federal Republic of Yugoslavia, violate the guaranteed rights and liberties of man and the citizen, or foment national, racial or religious intolerance and hatred (art. 38 of the Constitution).

286. Verbal delict does not exist in the legal system of the Federal Republic of Yugoslavia.

Article 20

Paragraph 1

287. Under article 78, subparagraph 3, of the Constitution of the Federal Republic of Yugoslavia, the Federal Assembly decides on war and peace and is responsible for declaring a state of war, a state of imminent threat of war or a state of emergency.

288. In the Yugoslav legal system, calling for or incitement of aggressive war is a crime, punishable by 10 years' imprisonment (art. 152 of the Criminal Law of the Federal Republic of Yugoslavia).

Paragraph 2

289. Any advocacy or encouragement of national, racial, religious or other inequality, as well as the incitement and fomenting of national, racial, religious or other intolerance, are unconstitutional and punishable (art. 50 of the Constitution).

290. The Yugoslav Criminal Law (art. 134) also sanctions incitement and encouragement of national, racial or religious hatred, division or intolerance among nations and among national minorities living in the Federal Republic of Yugoslavia - by imprisonment for between one and 10 years. Under the same Law, any person who, on the basis of difference in race, skin colour, national or national background, violates fundamental human rights and liberties recognized by the international community is punishable by imprisonment for between six months and five years (art. 154).

Article 21

291. Freedom of speech and public appearance are guaranteed by the Constitution of the Federal Republic of Yugoslavia. Freedom of assembly and other peaceful gathering, without the need for a permit but subject to prior notification of the authorities, are also guaranteed by the Constitution. Freedom of assembly and other peaceful gathering of citizens may be provisionally restricted by

decision of the competent authorities, in order to obviate a threat to public health or morals or for the protection of human lives or property (art. 40 of the Constitution). This subject matter is more closely regulated by the Law on Public Gatherings of the Republic of Serbia. Gatherings of citizens include the convening and holding of meetings or other assemblies in the appropriate area specified by the municipal (town) act, with prior notification of the competent authority of the Ministry of the Interior. Meetings, as well as moving public assemblies, and movement of participants, may take place in the specified area. A moving public gathering may proceed only with uninterrupted movement, except at the places of departure and arrival (arts. 2-3 of the Law on Public Gatherings).

292. Maintenance of order at a public gathering in the Republic of Serbia is the responsibility of the person who convened it. Protection of the personal safety and property of participants in a public gathering and of other citizens, maintenance of public order and of the peace and security of traffic, and other matters relating to security at a public gathering are the responsibility of the Ministry of Internal Affairs of the Republic of Serbia. Utility services relating to a public gathering are provided by the competent municipal (town) authorities.

293. No permit is required to hold a public gathering but the person who convenes it must notify the Ministry of Internal Affairs of the Republic of Serbia - specifically, its organizational unit in the territory where the gathering is to be held - not later than 48 hours before its scheduled time.

294. The holding of a moving public gathering must be notified to the competent authority, by the person convening it, not later than five days prior to its scheduled time. The notification must include the programme and objective of the gathering, information on the venue, time and duration of the gathering, and details of the arrangements made to maintain order and of the steward service organized for that purpose, with an estimate of the number of participants. The notification must also contain a detailed description of the route and state the places of departure and arrival. A public gathering is considered to have been notified when full notification is received. A public gathering which is held without prior notification is dispersed by the competent authority and measures are taken to enforce public order and peace.

295. The competent authority may provisionally prohibit a public gathering if it is aimed at the violent overthrow of the constitutional order, violation of the territorial integrity or independence of the Republic of Serbia, violation of the human rights and liberties of man and the citizen guaranteed by the Constitution, or incitement of national, racial or religious intolerance. The competent authority must notify the person convening a public gathering that it is prohibited not later than 12 hours before its scheduled time.

296. A request containing an argument in support of the decision to prohibit a public gathering must be submitted by the competent authority within 12 hours to the competent regional court. Within 24 hours from the receipt of the request, the regional court must hold a hearing to which the person submitting the request and the person convening the gathering are invited, and at which it will make its decision.

297. The regional court may adopt a decision rejecting the request and nullifying the decision regarding provisional prohibition or may confirm the prohibition of the public gathering, in which case the person convening the gathering may complain to the Supreme Court of Serbia. A decision on such a complaint must be made by the Chamber of the Supreme Court within 24 hours of its receipt.

298. During the period 1992-1997, a total of 163,217 public gatherings were held in the Republic of Serbia and only 37 decisions were adopted to prohibit public gatherings: 1 in 1992, 13 in 1993, 5 in 1994, 9 in 1995, 1 in 1996 and 8 in 1997.

Article 22

Paragraph 1

299. The freedom and right of association of citizens are guaranteed by the Constitution of the Federal Republic of Yugoslavia and by the constitutions of the member republics. Citizens are guaranteed freedom of trade-union association and activities, without the need for permit, subject to registration with the competent authorities. Professional members of the armed forces and police force of the Federal Republic of Yugoslavia may not organize in trade unions.

300. Federal and republican laws on employment prescribe that workers have the right to organize a trade union to protect the rights and interests of the members in accordance with the law.

301. The Law on Association of Citizens in Yugoslav territory (1990) stipulates that citizens may freely associate with each other and for that purpose establish associations and social and political organizations, which acquire the status of a legal person by entry in the registry. These organizations operate publicly and must abide by the law.

302. Political organizations in the Federal Republic of Yugoslavia are organized on a territorial basis. In the Republic of Serbia, the establishment, dissolution and financing of political organizations are regulated by the Law on Political Organizations (1990), the Regulations on the Contents and Method of Keeping the Registry of Political Organizations (1990) and the Law on the Financing of Political Parties (1997).

303. In accordance with the Constitution of the Republic of Serbia (art. 44, para. 1), political organizations may be established and function without the need for a permit, subject to registration with the Ministry of Justice of the Republic of Serbia. A political organization may be established by a minimum of 100 citizens of full age, and it acquires the status of a legal person by entry in the registry. To be entered in the registry of political parties, a political organization must enclose the following with its application: the minutes of the founding assembly; the programme and statute of the organization; a signed statement by the founders that they wish to establish a political organization; and photocopies of the identity cards of the founders.

304. Between the date of adoption of the Law on Political Organizations in 1990 and 1997, 167 political parties were registered in the Republic of Serbia. This Law stipulates that no one may prohibit the establishment of political parties nor control their activity.

305. An application for entry in the registry of political parties will be rejected if it is incomplete, if a political party bearing the same name has already been registered or if the name of the political party offends public morals. A political organization must cease operations if a decision is taken to that effect, if its membership is reduced below the number envisaged for foundation or if its work is prohibited by a valid decision.

306. During the period 1990-1998, in accordance with the provisions of article 10 of the Law on Political Organizations, the Ministry of Justice of the Republic of Serbia rejected 15 applications for entry in the registry of political organizations, because the necessary documents were neither attached to the application nor submitted subsequently within the period prescribed by the law. Three applications for entry in the registry were rejected because the names of the political organizations in question offended public morals. No complaints against these decisions were lodged.

307. Numerous non-governmental organizations engaged in the protection of human rights are active in the Federal Republic of Yugoslavia. In accordance with the law, they are registered as associations of citizens, and may be established by a minimum of 10 citizens of full age.

Paragraph 2

308. Activities of political, trade-union and other organizations aimed at the violent overthrow of the constitutional order, violation of the territorial integrity of the Federal Republic of Yugoslavia, violation of the guaranteed rights and liberties of man and the citizen, or incitement of national, racial, religious or other intolerance or hatred are prohibited (art. 42, para. 1, of the Federal Constitution).

309. The same provision is contained in the constitutions of the republics, the Law on Association of Citizens in Yugoslav territory and the respective republican laws. For example, in the Republic of Serbia, a decision to prohibit the work of a political organization is taken by the Constitutional Court of Serbia at the request of the Government, the Public Prosecutor of the republic or the Ministry of Justice of the Republic of Serbia.

Paragraph 3

310. Legislation of the Federal Republic of Yugoslavia complies fully with ILO Conventions No. 87 (Freedom of Association and Protection of the Right to Organize Convention, 1948) and No. 98 (Right to Organize and Collective Bargaining Convention, 1949), both ratified by Yugoslavia.

311. In the Republic of Serbia, application of ILO Convention No. 87 is ensured by the Constitution of Serbia, the Law on Employment, the Regulations on Entry of Trade-Union Organizations in the Registry, the common collective contract and special and individual contracts, as well as by general acts of trade-union

organizations. The Law on Employment establishes that trade-union organizations are entered in the registry of such organizations kept by the ministry responsible for employment affairs (art. 5, para. 3). Entry in the registry, according to the Regulations on the Entry of Trade-Union Organizations in the Registry, is made on the basis of an application by the trade union. The act establishing the trade-union organization and authorization for submission of the application must be enclosed with the application. A certificate on the entry in the registry is issued. Some 13,000 trade-union organizations have to date been entered in the registry. The organizational structure and methods of work of such organizations are regulated independently by their statute and regulations.

312. Application of ILO Convention No. 98 in the Republic of Serbia is ensured by the Constitution of Serbia, the Law on Employment and the General Collective Agreement. In accordance with the Law on Employment, the right to employment, i.e. the right to obtain employment under equal conditions, and the availability of posts are ensured first and foremost through the obligation to advertise a vacant post. Any person aged 15 or over who is in good health and meets the special conditions for certain work prescribed by law and by the employer's general enactment has the right to apply (arts. 7 and 9 of the Law on Employment). The basic provisions of the Law on Employment specify that employment is regulated by law and by the collective agreement. Under article 119 of the Law, the collective agreement regulates in accordance with the law the rights and duties of the employer and the employee, as well as the mutual relations of the parties to the collective agreement.

313. In conformity with the Constitution of the Republic of Serbia, collective agreements in the employment legislation of Serbia are conceived as basic acts which regulate the rights, duties and responsibilities stemming from employment in accordance with the law.

314. The Constitution of the Federal Republic of Yugoslavia (art. 57) stipulates that employees (with the exception of employees in government bodies and professional army and police personnel) have the right to strike in order to protect their professional and economic interests. The right to strike may be restricted under federal law if required by the nature of the activity in question or by the public interest.

315. The Federal Law on Strikes stipulates that the right to strike of workers in organizations the discontinuation of whose activity could, because of the nature of their work, endanger human life or health may be exercised only provided the minimum of activity necessary to ensure the safety of people and property is maintained. This condition applies, for example, to the chemical, steel and metallurgical industries and to other activities of public interest, including power generation, transportation, information, the postal and telephone services, public utility services, the production of staple foods, health and veterinary care, education, social welfare and child-care services, activities of special importance for the defence and security of the Federal Republic of Yugoslavia and activities necessary for the performance of Yugoslavia's international obligations. It also applies to occupations fulfilling in irreplaceable condition of the life and work of citizens or of the work of other enterprises, i.e. to relevant physical or legal persons performing an economic or other activity or service.

Article 23

Paragraphs 1 and 2

316. The Law on Marriage and Family Relations of the Republic of Serbia stipulates that, for a marriage to be valid, the following conditions must be met: the couple are of different sex; they freely agree to enter the marriage; neither is already effectively married; they are both aged 18 or over; they are of sound mind; they are not related by blood; they are not brother and sister, stepbrother and stepsister, uncle and niece, aunt and nephew, or children of stepbrothers and/or stepsisters; they are not in-laws; they are not father-in-law and daughter-in-law or son-in-law and mother-in-law, nor stepfather and stepdaughter or stepmother and stepson; they are not adoptive parent and adopted child or adoptive parent and adoptive parent's offspring in the case of incomplete adoption (see para 328 below); they enter the marriage in order to have a family; and there is no blood link based on full adoption (ibid.).

317. By a court decision in an uncontested procedure, marriage may be allowed between persons who are related on the basis of incomplete adoption and between in-laws, as well as between persons aged under 18 (but over 16).

318. In the case of infringement of the conditions for the validity of a marriage, the sanction under the law of the Republic of Serbia is annulment of the marriage, which becomes legally effective when the court ruling on annulment takes effect, and which is almost identical in consequences to divorce. In some cases, the Law on Marriage and Family Relations allows court convalidation of an annulled marriage.

Paragraph 3

319. A marriage is concluded at the moment when the two parties give their consent. Attendance by a representative of the authorities is required, and if the marriage is concluded without such a representative present, it will be void (not non-existent).

Paragraph 4

320. The law envisages only two grounds for divorce: severe and lasting disruption of conjugal relations and mutual agreement to divorce.

321. In its ruling to grant a divorce, the competent court will also make a decision on the custody and upbringing of children of the two parties. The court may rule that all the children remain in the custody of one of the parents; that some children remain with their mother and others with their father; or that the custody of all the children be entrusted to a third person or an institution. The basic principle guiding the court ruling will be the best interests of the children. At the request of one of the parents, or of the authority serving as custodian, the court may amend an earlier ruling, provided the circumstances have changed. A parent who has not been given custody of a child is entitled to maintain personal relations with the child.

322. The Law on Marriage and Family Relations of the Republic of Serbia recognizes common-law marriage, but solely in relation to property upon its termination, provided certain general conditions are fulfilled - for example, that there are no legal obstacles to entering into marriage as stipulated by law - and subject to various specific conditions depending on the type of property right in question (maintenance, division of joint property, etc.).

323. A common-law marriage in which, at the time of its establishment, one of the partners is legally married, or in which the partners are related by blood or by full adoption (for which reasons a marriage cannot be concluded), or in which one of the partners is not of sound mind will have no effect on the partners' respective property unless, in the meantime, any of the impediments is removed.

324. As a rule, a child acquires Yugoslav citizenship by origin if both parents are Yugoslav nationals, or by birth in the territory of the Federal Republic of Yugoslavia provided that at least one of the parents is a Yugoslav citizen. If a child is born abroad and one of the parents is a Yugoslav citizen, the child acquires Yugoslav citizenship if registered as a Yugoslav citizen at the competent diplomatic or consular office of the Federal Republic of Yugoslavia before the age of 18, and if he or she applies for entry in the registry of Yugoslav citizens. If the parents are divorced, a request for release from Yugoslav citizenship for a child under 18 may be submitted by the parent who is granted custody of the child under the relevant court ruling. However, the child will be released from citizenship only if the other parent agrees and if such release is in the interest of the child, according to the custodian body. If the child is over 14, his or her consent is required.

Article 24

Paragraphs 1 and 2

325. The Federal Republic of Yugoslavia has endorsed and is abiding by international instruments stipulating that children must be spared the consequences of armed conflicts, particularly participation in armed conflicts. Children are also protected against participation in armed conflicts under the regulations of the Yugoslav Army governing the performance of military service. These regulations lay down the minimum age for the performance of military service, which has been set at 21 years. In exceptional cases, a conscript may, at his own request, perform his military service before the age of 21, but not if he is under 18.

326. Regulations in the Republic of Serbia define the basic measures of social, family and child care as the rights of the family, of the mother and of the child. They include, in particular, the right to material security; the right to an allowance for care of another person; the right to help at home; the right to an allowance for training for work; the right to a child allowance; the right to a mother's allowance; the right to compensation for young mothers; the right to an allowance for outfitting a newborn child; the right to accommodation for expectant mothers and young mothers in a maternity ward; the right to accommodation in a children's institution, a social-care institution, a corrective institution, or a specialized social or health institution; the right

to free health care and treatment of expectant mothers, young mothers and children, etc. These rights are the responsibility of the Republic of Serbia, while the funds for the exercise of particular rights are provided by the municipality, i.e. the town.

327. The main forms of childcare with respect to parentless children in the Republic of Serbia are guardianship, placement in foster care, placement in a home for parentless children and adoption.

328. The Law on Marriage and Family Relations of the Republic of Serbia envisages two forms of adoption: ordinary (incomplete) adoption and full adoption. After full adoption, the child is fully integrated in the adoptive parents' family and the relationship of kinship is established, as well as the rights and duties based thereon between the child and his offspring on the one hand, and the adoptive parents and their next-of-kin on the other. Upon completion of a full adoption, the earlier entry in the register of births is deleted and the adopted child is entered in the register under a new name and with his adoptive parents as his natural parents.

329. A person in the Federal Republic of Yugoslavia becomes able to work at the age of 18. Full capacity to work may be acquired before that age when a minor over 16 years of age enters into a marriage following permission to that effect resulting from out-of-court proceedings.

330. Partial working ability is recognized for minors between 14 and 18 years of age. This means that they may perform legal transactions, but for these transactions to be valid (except for transactions of minor importance) the parents' consent is needed. For transactions which the parent or guardian cannot undertake, the approval of the guardian's agency is required. A child aged over 16, if of sound mind, may agree to recognize parenthood or motherhood. For the adoption of a child aged over 10 and for the changing of his name, his consent is required. Under the Law on Inheritance of the Republic of Serbia, the ability to make a will is acquired at the age of 15.

331. A minor is not answerable for any damage he causes (a delict) until he is seven years old. His parents are answerable irrespective of the guilt in question. A minor between the ages of seven and 14 must answer for damage if at the time he caused the damage he was capable of making reasonable decisions. A minor acquires full delict responsibility at the age of 14.

332. No penalty may be pronounced against a child under 14 years of age. Younger minors (children who are 14 but not yet 16) may receive only corrective punishment (disciplinary measures, measures of enhanced supervision and placement in a correctional institution). Imprisonment in an institution for minors is envisaged only as an exception and may be pronounced only against a minor who was over 16 at the time of the commission of the criminal offence but under 18 (an elder minor) and only under the following conditions: that he has committed a criminal offence for which more than 5 years' imprisonment is envisaged as punishment; that he is criminally responsible; and that, because of the grave consequences of the offence, it would be inappropriate to pronounce only a corrective measure.

333. As for responsibility for offences, the same age limits apply as for responsibility for crimes and the main sanction is a corrective measure. It is only exceptionally that a minor who has committed an offence is punished by a term of imprisonment and it is only elder minors that are so punished, in accordance with strictly defined criteria. This punishment cannot be imposed for longer than 15 days, nor can a fine be replaced by a jail sentence if the term of imprisonment would be more tnan 15 days.

334. Detention cannot be pronounced against anyone aged under 16. As for corrective measures of an institutional character (referral to an educational institution, a correctional institution or a special institution) the lower age limit is 14.

335. The Federal Law on the Basic Rights Stemming from Employment stipulates uniform criteria for employment, namely that an applicant be at least 15 years of age and generally an able-bodied person. However, federal and republican regulations in accordance with the relevant ILO conventions lay down special rights for employees under 18 because of their specific mental and physical characteristics and with a view to their protection. Thus, for instance, employees under 18 may not fill jobs involving mainly hard manual labour (jobs underground or under water); they may not fill jobs which could adversely affect their health or expose them to certain health risks (art. 35 of the Federal Law on the Fundamental Principles of Labour Relations); and, if they work in industry or civil engineering, they may not be assigned to night shifts if such work would prevent them from resting for at least seven hours between 10 p.m. and 6 a.m. the following day (art. 75 of the Law on Labour Relations of the Republic of Serbia).

Article 25

336. All Yugoslav citizens over 18 years of age have the right to vote and to be elected to government office (art. 34 of the Constitution of the Federal Republic of Yugoslavia).

337. With regard to the exercise of civil and political rights, agencies of the Government are obliged, under the Law on State Administration of the Republic of Serbia (1992), to provide equal legal protection to everyone in the exercise of their rights, duties and interests and to ensure that no one who works for the government agency is guided by his political opinions or may advocate them.

338. Of relevance in this respect are the provisions of this Law which stipulate that the work of government agencies must be accessible to the public, but that such access may be restricted or denied in cases specified by law. This means that the work of government agencies is subject to public scrutiny as well as to public supervision in a manner stipulated by law.

339. Regulations in the republics lay down the fundamental principles of the electoral system. The Constitution of the Republic of Serbia stipulates that suffrage is universal and equal, and that elections must be direct and by secret ballot. The right to vote, under the Law on the Election of People's Deputies (1992), includes the exercise of the following rights in the manner and according to the procedure stipulated by law: to vote and be elected; to put

forward candidates and to be a candidate; to decide on the proposed candidates and electoral lists; to put questions to candidates in public; and to be duly and objectively informed about the programmes and activities of parties and groups of citizens, as well as about their candidates.

340. The right to elect a deputy is vested in any citizen of the Republic of Serbia who is at the same time a Yugoslav citizen, who is over 18 years of age, who is able to work and whose residence is in the territory of the electoral unit in which he wishes to vote. Any citizen of the Republic of Serbia who is at the same time a Yugoslav citizen, over 18 and able to work may be elected a deputy. Voting registers, which are kept as public documents, are particularly important for the exercise of the right to vote.

341. Local government elections in the Republic of Serbia are regulated by the Law on the Territorial Organization of the Republic of Serbia and Local Self-Rule (1992). Unlike people's deputies in the National Assembly of the Republic of Serbia, who are elected by the proportional representation system, delegates to municipal and town assemblies are elected directly by the majority principle.

342. Equitable access to public service in the Republic of Serbia is governed by the Law on Labour in Public Services (1991). Article 6 of this Law stipulates that a person may be employed by a government agency on the following conditions: that he is a citizen of the Federal Republic of Yugoslavia; that he is over 18 years of age; that he is generally healthy; that he has the required qualifications; and that he has not been convicted of any criminal offence for which the sentence was six months' unconditional imprisonment or more or of any other punishable offence making him ineligible for the discharge of functions in a government agency.

343. A foreign national or a stateless person may be employed by a government agency in accordance with the law. The possibility of foreign nationals taking part in general and local elections has not been envisaged and therefore they may not discharge public functions in agencies of central and local government.

Article 26

344. It is emphasized once again that all citizens are equal before the law (art. 20, para. 2, of the Constitution of the Federal Republic of Yugoslavia), and that it is unconstitutional and punishable to instigate or encourage national, racial, religious or other inequality. The same applies to instigation or fomenting of national, racial, religious or other hatred and intolerance (art. 50 of the Constitution).

345. Article 69 of the Federal Constitution lays down the right to work as an inalienable human right. The freedom to work, i.e. the right to employment under equal conditions and the protection of workers against all forms of discrimination, is provided for by the labour legislation of the member republics.

346. In accordance with ILO Convention No. 111 (Discrimination (Employment and Occupation) Convention, 1958), which Yugoslavia has ratified, and the

International Convention on the Elimination of All Forms of Racial Discrimination, there are no differences, exceptions, exclusions or more favourable treatment in the legislation and administrative practice of the Federal Republic of Yugoslavia and its member republics on the basis of national, racial, religious or other origin, political opinion, gender, social background, material status or any other grounds.

347. The implementation of the principle of securing equal employment opportunities, i.e. the right to professional counselling and vocational training, is regulated by the relevant provisions of the Law on Employment and the Exercise of Rights by Unemployed Persons of the Republic of Serbia (1992). In accordance with article 10 of this Law, professional counselling is provided to unemployed and other persons concerned in order to help them choose an occupation and employment in accordance with the general enactment of the employing organization. The Law further stipulates the right to preparation for employment, which encompasses training up to a certain level of qualifications, retraining and additional training, refresher courses and other forms of training.

348. However, the economic problems of the past several years in the Federal Republic of Yugoslavia, exacerbated in particular as a result of the United Nations sanctions, have dramatically undermined economic development and new job creation and thus restricted and almost denied the possibility of people exercising their right to work. These circumstances have adversely affected the employed as well, who are often only formally employed and, in fact, idle, and who may represent redundant labour. In addition, these circumstances have encouraged Yugoslav citizens to go abroad because, frankly, they could not find employment at home.

Article 27

349. As already indicated, the Federal Republic of Yugoslavia recognizes and guarantees the rights of national minorities to preserve, develop and express their ethnic, cultural, linguistic and other specificities, as well as to use national symbols, in accordance with international law (art. 11 of the Constitution of the Federal Republic of Yugoslavia).

350. Article 13 of the Constitution of the Republic of Serbia reads:

> "Citizens shall be equal in their rights and duties and shall have equal protection before State and other organs irrespective of their race, gender, birth, language, national origin, religion, political or other opinion, education, social background, material status or any other personal characteristic."

Article 15 of the Constitution of the Republic of Montenegro reads:

> "Citizens shall be free and equal, regardless of any specificity or personal characteristic."

351. Members of 26 different national minorities live side by side with Serbs and Montenegrins in the Republic of Serbia. The largest number of members of

national minorities live in the Autonomous Province of Vojvodina. The Autonomous Province of Kosovo and Metohija is inhabited by the Albanian national minority, which is the largest minority, as well as by members of the Turkish and other national minorities. A number of Bulgarians, Vallachians and Romanians and a smaller number of members of other national minorities live in Central Serbia.

Albanians

352. The Autonomous Province of Kosovo and Metohija is for the most part inhabited by members of the Albanian national minority, the most numerous minority in the Federal Republic of Yugoslavia.

353. Schooling in Albanian is organized for members of the Albanian national minority. All Albanians are provided with the possibility of receiving elementary schooling and more than 90 per cent of them secondary schooling. This education is provided at State-run schools. In addition, some 1,200 students belonging to the Albanian national minority study at the University of Pristina. The signing of the Agreement on the Normalization of Education in Kosovo and Metohija and the decision by the "3 + 3" Group on its implementation in stages have met with approval and support both in Yugoslavia and abroad.

354. Fifty-two daily and weekly journals are published in Kosovo and Metohija, as well as other periodicals, their circulation being more than 2.5 million copies per year. In addition, television and radio programmes in Albanian are broadcast by RTS-RTV Pristina for some 14 hours per day. A half-hour daily news report in Albanian is also broadcast by RTV Belgrade.

Hungarians

355. Education in Hungarian in elementary schools is provided in 29 municipalities, 113 educational units, 93 elementary schools and 35 accessory classes, covering 22,062 pupils in a total of 1,042 classes. Education in Hungarian for mentally retarded pupils (pupils with special needs) is provided in 13 municipalities, i.e. in five schools for pupils with special needs, as well as in classes at 12 regular elementary schools, covering 442 pupils in a total of 63 classes.

356. At regular secondary schools, 6,362 students receive education in Hungarian. Higher education is provided at 13 faculties. In the academic year 1996/97, the number of students at the University of Novi Sad totalled 22,808, of whom 1,296 (5.68 per cent) were of Hungarian nationality.

357. Books in Hungarian are published by the publishing house Forum, founded in 1957. So far, this company has published more than 2,000 titles. From 1993 to 1996, some 40 new titles were published every year, their average circulation being 1,000 copies. Forum publishes a magazine for culture, literature and the arts, Hid, and a magazine for scientific and social issues, Letnik. Other publications in Hungarian include a family weekly, Ui simpozion, a magazine for literature and culture, Izenet, a bilingual magazine in Serbian and Hungarian for literature, the arts and culture, Orbis, and a professional pedagogical magazine, Oktatas esz neveles. The Hungarian Language Department of the Faculty of Philosophy in Novi Sad also publishes a professional compendium in Hungarian entitled Hungarologiai kezslemenyek.

Slovaks

358. Bilingual education in Serbian and Slovak is provided in two municipalities at two elementary schools for 143 pupils in six classes from the fifth to the eighth levels. Some 72 per cent of pupils of Slovak nationality attend classes in their mother tongue.

359. Education in Slovak in secondary schools is provided in two municipalities at two schools and in 12 classes. Some 1,700 students of Slovak nationality receive their education at regular secondary schools, 17.8 per cent of them in Slovak.

360. In the school year 1996/97 there were 70 students of Slovak nationality at two-year post-secondary schools, accounting for 1.38 per cent of the total number of students at these schools. Classes in Slovak were provided at the Teacher Training College in Novi Sad.

361. Publications in Slovak are produced by the publishing house Kultura, founded in 1953. The company publishes an average of 13 new titles in Slovak per year, with an average circulation of 600 copies. In addition, it publishes a culture and arts quarterly entitled Novi Zivot, with a circulation of 400 copies.

Romanians

362. Elementary education in Romanian is provided in 10 municipalities in Vojvodina at 28 schools for 2,000 pupils. Secondary education in Romanian is available at two schools: at the grammar school in Vrsac and at the secondary vocational school in Alibunar. Higher education in Romanian is provided at the Faculty of Philosophy in Novi Sad and at the Teacher Training College in Vrsac. At the University of Novi Sad, 1.5 per cent of students and 1 per cent of instructors are of Romanian nationality.

363. Libertatea, a weekly magazine on news and politics in Romanian founded in 1945, is published in some 4,000 copies. Other titles in Romanian include the youth magazine Tineretea and the children's magazine Bukuria kopilor, as well as a dozen or so local magazines. The publishing house Libertatea publishes a magazine for culture and the arts in Romanian entitled Lumina, which appears six times a year.

Bulgarians

364. Bulgarians are the tenth largest minority group in the Federal Republic of Yugoslavia. They live in Central Serbia, and most of them are residents of the municipality of Bosilegrad, where they account for 72 per cent of the population, and Dimitrovgrad (52.5 per cent).

365. Education in Bosilegrad follows the bilingual pattern from classes 1 to 8, while secondary education is provided in Serbian, with a number of classes devoted to the study of the Bulgarian language. In Dimitrovgrad, elementary and secondary education is provided in accordance with regulations envisaging three solutions. One of the solutions is the possibility of receiving schooling in the language of the minority provided parents and children so wish.

366. Publications in Bulgarian are produced by the publishing house Bratstvo, which has its head office in Nis. Established by the National Assembly of the Republic of Serbia in 1995, the company publishes the information weekly Bratstvo, the children's monthly Drugarce and the bimonthly magazine Most.

Ruthenians

367. Education in Ruthenian is provided in three municipalities at three regular elementary schools. Regular secondary schools are attended by 516 students of Ruthenian nationality, and 77 of these students are taught in their mother tongue. Thirty-two students of Ruthenian nationality attend classes at two-year post-secondary schools and 135 go to faculties and academies. Fifteen students attend classes in Ruthenian at the Faculty of Philosophy in Novi Sad, in the Department for the Ruthenian Language and Literature an in other departments.

368. In Vojvodina, Ruthenian-language publications include the weekly Ruske Slovo, the children's magazine Zahratka and the magazine for literature and culture Svetlosc.

Romanies

369. The largest number of pupils of Romany nationality receive their education in Serbian, Hungarian, Albanian, Slovak or Ruthenian. Since 1997/98, pupils at two elementary schools can take optional classes in the Romany language.

370. The Society for the Romanies' Language and Literature is active in Vojvodina. It publishes the professicnal magazine Romology and the monthly Alav e Romengo.